

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 262
Judiciary II Committee Substitute Adopted 3/30/09

Short Title: Expunctions/Purge Online Databases.

(Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT AN ORDER TO EXPUNGE AN INDIVIDUAL'S RECORD SHALL BE FORWARDED BY THE CLERK OF COURT TO ALL APPLICABLE STATE AND LOCAL GOVERNMENT AGENCIES, TO REQUIRE A STATE GOVERNMENT AGENCY TO FORWARD NOTICE OF EXPUNCTION ORDERS RECEIVED BY THE AGENCY TO ANY PRIVATE ENTITY THAT DISSEMINATES CRIMINAL HISTORY RECORDS FOR COMPENSATION THAT IS LICENSED BY THE AGENCY TO ACCESS THE AGENCY'S CRIMINAL HISTORY RECORD DATABASE, TO PROVIDE THAT A PRIVATE ENTITY THAT DISSEMINATES CRIMINAL HISTORY RECORDS FOR COMPENSATION HAS A DUTY TO UPDATE THOSE HISTORIES BEFORE DISSEMINATING THEM AND IS SUBJECT TO BOTH CIVIL LIABILITY AND TO A CIVIL PENALTY FOR FAILURE TO CARRY OUT ITS DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-50.30(b) reads as rewritten:

"(b) If the court, after hearing, finds that the petitioner has remained of good behavior and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two years from the date of conviction of the offense in question, the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against him, and the petitioner had not attained the age of 18 years at the time of the conviction in question, it shall order that such person be restored, in the contemplation of the law, to the status occupied by the petitioner before such arrest or indictment or ~~information.~~ information and that the conviction be expunged from the records of the court. No person as to whom such order has been entered shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, or indictment, information, or trial, or response to any inquiry made of the person for any purpose. The court shall also ~~order that the said conviction be expunged from the records of the court, and~~ direct all law enforcement ~~agencies~~ agencies, the Department of Correction, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as bearing record of the ~~same conviction~~ to expunge their records of the petitioner's conviction as the result of a criminal charge. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other arresting ~~agency~~ agency and, when applicable, to the Division of Motor Vehicles, the Department of Correction, and any other State or local agency. The sheriff, chief, or head of such other arresting agency shall then transmit the copy of the order with a form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation."



1 **SECTION 2.(a)** G.S. 15A-145(c) reads as rewritten:

2 "(c) The court shall also order that the ~~said~~—misdemeanor conviction, or a civil
3 revocation of a drivers license as the result of a criminal charge, be expunged from the records
4 of the ~~court, and~~ court. The court shall direct all law-enforcement agencies, the Department of
5 Correction, including the Division of Motor Vehicles, and any other State or local government
6 agencies identified by the petitioner as bearing record of the same to expunge their records of
7 the petitioner's conviction or a civil revocation of a drivers license as the result of a criminal
8 charge. This subsection does not apply to civil or criminal charges based upon the civil
9 revocation, or to civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy
10 of the order to the sheriff, chief of police, or other arresting ~~agency.~~ agency and, when
11 applicable, to the Department of Correction and any other State or local agency. The clerk shall
12 forward a certified copy of the order to the Division of Motor Vehicles for the expunction of a
13 civil revocation provided the underlying criminal charge is also expunged. The civil revocation
14 of a drivers license shall not be expunged prior to a final disposition of any pending civil or
15 criminal charge based upon the civil revocation. The sheriff, chief or head of such other
16 arresting agency shall then transmit the copy of the order with a form supplied by the State
17 Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of
18 Investigation shall forward the order to the Federal Bureau of Investigation."

19 **SECTION 2.(b)** G.S. 15A-145(d) reads as rewritten:

20 "(d) The clerk of superior court in each county in North Carolina shall, as soon as
21 practicable after each term of court in his county, file with the Administrative Office of the
22 Courts, the names of those persons granted a discharge under the provisions of this section, and
23 the Administrative Office of the Courts shall maintain a confidential file containing the names
24 of persons granted conditional discharges. The information contained in such file shall be
25 disclosed only to judges of the General Court of Justice of North Carolina for the purpose of
26 ascertaining whether any person charged with an offense or any person filing a civil action
27 under G.S. 15A-150.1 has been previously granted a discharge."

28 **SECTION 3.(a)** G.S. 15A-146(b) reads as rewritten:

29 "(b) The court may also order that the said entries, including civil revocations of drivers
30 licenses as a result of the underlying charge, shall be expunged from the records of the court,
31 and direct all law-enforcement agencies, the Department of Correction, including the Division
32 of Motor Vehicles, and any other State or local government agencies identified by the
33 petitioner as bearing record of the same to expunge their records of the entries, including civil
34 revocations of drivers licenses as a result of the underlying charge being expunged. This
35 subsection does not apply to civil or criminal charges based upon the civil revocation, or to
36 civil revocations under G.S. 20-16.2. The clerk shall forward a certified copy of the order to the
37 sheriff, chief of police, or other arresting ~~agency.~~ agency and, when applicable, to the
38 Department of Correction and any other State or local agency. The clerk shall forward a
39 certified copy of the order to the Division of Motor Vehicles for the expunction of a civil
40 revocation provided the underlying criminal charge is also expunged. The civil revocation of a
41 drivers license shall not be expunged prior to a final disposition of any pending civil or criminal
42 charge based upon the civil revocation. The sheriff, chief or head of such other arresting agency
43 shall then transmit the copy of the order with the form supplied by the State Bureau of
44 Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall
45 forward the order to the Federal Bureau of Investigation. The costs of expunging these records
46 shall not be taxed against the petitioner."

47 **SECTION 3.(b)** G.S. 15A-146(c) reads as rewritten:

48 "(c) The Clerk of Superior Court in each county in North Carolina shall, as soon as
49 practicable after each term of court in his county, file with the Administrative Office of the
50 Courts, the names of those persons granted an expungement under the provisions of this section
51 and the Administrative Office of the Courts shall maintain a confidential file containing the

1 names of persons granted such expungement. The information contained in such files shall be
2 disclosed only to judges of the General Court of Justice of North Carolina for the purpose of
3 ascertaining whether any person charged with an offense or any person filing a civil action
4 under G.S. 15A-150.1 has been previously granted an expungement."

5 **SECTION 4.** G.S. 15A-147 reads as rewritten:

6 "**§ 15A-147. Expunction of records when charges are dismissed or there are findings of**
7 **not guilty as a result of identity theft.**

8 (a) If any person is named in a charge for an infraction or a crime, either a
9 misdemeanor or a felony, as a result of another person using the identifying information of the
10 named person and the charge against the named person is dismissed, a finding of not guilty is
11 entered, or the conviction is set aside, the named person may apply by petition or written
12 motion to the court where the charge was last pending on a form approved by the
13 Administrative Office of the Courts supplied by the clerk of court for an order to expunge from
14 all official records any entries relating to the person's apprehension, charge, or trial. The court,
15 after notice to the district attorney, shall hold a hearing on the motion or petition and, upon
16 finding that the person's identity was used without permission and the charges were dismissed
17 or the person was found not guilty, the court shall order the expunction.

18 (b) No person as to whom such an order has been entered under this section shall be
19 held thereafter under any provision of any law to be guilty of perjury, or to be guilty of
20 otherwise giving a false statement or response to any inquiry made for any purpose, by reason
21 of the person's failure to recite or acknowledge any expunged entries concerning apprehension,
22 charge, or trial.

23 (c) The court shall also order that the said entries shall be expunged from the records of
24 the court and direct all law enforcement agencies, the Department of Correction, the Division
25 of Motor Vehicles, or any other State or local government agencies identified by the petitioner
26 as bearing record of the same to expunge their records of the entries. The clerk shall forward a
27 certified copy of the order to the sheriff, chief of police, or other charging agency; and, when
28 applicable, to the Department of Correction, the Division of Motor Vehicles ~~Vehicles~~, and any
29 other State or local agency. The sheriff, chief, or head of such other charging agency shall then
30 transmit the copy of the order with the form supplied by the State Bureau of Investigation to the
31 State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to
32 the Federal Bureau of Investigation. Upon receipt of a certified copy of the order, the agency
33 must purge its records as required by this section. The costs of expunging these records shall
34 not be taxed against the petitioner.

35 (d) The Division of Motor Vehicles shall expunge from its records entries made as a
36 result of the charge or conviction ordered expunged under this section. The Division of Motor
37 Vehicles shall also reverse any administrative actions taken against a person whose record is
38 expunged under this section as a result of the charges or convictions expunged, including the
39 assessment of drivers license points and drivers license suspension or revocation.
40 Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall
41 provide to the person whose motor vehicle record is expunged under this section a certified
42 corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or
43 revoked as a result of a charge or conviction expunged under this section.

44 (e) ~~Any~~ The Department of Correction and any other applicable State or local
45 government agency shall expunge from its records entries made as a result of the charge or
46 conviction ordered expunged under this section. The agency shall also reverse any
47 administrative actions taken against a person whose record is expunged under this section as a
48 result of the charges or convictions expunged. Notwithstanding any other provision of law, the
49 normal fee for any reinstatement of a license or privilege resulting under this section shall be
50 waived.

1 (f) Any insurance company that charged any additional premium based on insurance
2 points assessed against a policyholder as a result of a charge or conviction that was expunged
3 under this section shall refund those additional premiums to the policyholder upon notification
4 of the expungement."

5 **SECTION 5.** G.S. 15A-149(b) reads as rewritten:

6 "(b) The order of expunction shall include an instruction that any entries relating to the
7 person's apprehension, charge, or trial shall be expunged from the records of the court and
8 direct all law enforcement agencies, the Department of Correction, the Division of Motor
9 Vehicles, or any other State or local government agencies identified by the petitioner as bearing
10 record of the same to expunge their records of the entries. The clerk shall forward a certified
11 copy of the order to the sheriff, chief of police, or other charging agency; and, when applicable,
12 to the Department of Correction, the Division of Motor ~~Vehicles~~ Vehicles, and any other State
13 or local agency. The sheriff, chief, or head of such other charging agency shall then transmit
14 the copy of the order with the form supplied by the State Bureau of Investigation to the State
15 Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the
16 Federal Bureau of Investigation. Upon receipt of a certified copy of the order, the agency must
17 purge its records as required by this section. The costs of expunging these records shall not be
18 taxed against the petitioner."

19 **SECTION 6.** G.S. 90-96(b) reads as rewritten:

20 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
21 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
22 of the offense, may apply to the court for an order to expunge from all official records (other
23 than the confidential file to be retained by the Administrative Office of the Courts under
24 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
25 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
26 application the following:

- 27 (1) An affidavit by the applicant that he has been of good behavior during the
28 period of probation since the decision to defer further proceedings on the
29 offense in question and has not been convicted of any felony, or
30 misdemeanor, other than a traffic violation, under the laws of the United
31 States or the laws of this State or any other state;
- 32 (2) Verified affidavits by two persons who are not related to the applicant or to
33 each other by blood or marriage, that they know the character and reputation
34 of the petitioner in the community in which he lives, and that his character
35 and reputation are good;
- 36 (3) Affidavits of the clerk of superior court, chief of police, where appropriate,
37 and sheriff of the county in which the petitioner was convicted, and, if
38 different, the county of which the petitioner is a resident, showing that the
39 applicant has not been convicted of a felony or misdemeanor other than a
40 traffic violation under the laws of this State at any time prior to the
41 conviction for the offense in question or during the period of probation
42 following the decision to defer further proceedings on the offense in
43 question.

44 The judge to whom the petition is presented is authorized to call upon a probation officer
45 for any additional investigation or verification of the petitioner's conduct during the
46 probationary period deemed desirable.

47 If the court determines, after hearing, that such person was dismissed and the proceedings
48 against him discharged and that he was not over 21 years of age at the time of the offense, it
49 shall enter such order. The effect of such order shall be to restore such person in the
50 contemplation of the law to the status he occupied before such arrest or indictment or
51 information. No person as to whom such order was entered shall be held thereafter under any

1 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
2 his failures to recite or acknowledge such arrest, or indictment or information, or trial in
3 response to any inquiry made of him for any purpose.

4 The court shall also order that said conviction and the records relating thereto be expunged
5 from the records of the court, and direct all law-enforcement ~~agencies~~ agencies, the Department
6 of Correction, the Division of Motor Vehicles, and any other State or local government
7 agencies identified by the petitioner as bearing records of the same to expunge their records of
8 the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of
9 police or other arresting agency, as ~~appropriate~~ appropriate and when applicable, to the
10 Department of Correction, Division of Motor Vehicles, and any other State or local government
11 agency. ~~and the~~ The sheriff, chief of police or other arresting agency, as appropriate, shall
12 forward such order to the State Bureau of Investigation with a form supplied by the State
13 Bureau of Investigation. The State Bureau of Investigation shall forward the court order in like
14 manner to the Federal Bureau of Investigation."

15 **SECTION 7.** G.S. 90-96(e) reads as rewritten:

16 "(e) Whenever any person who has not previously been convicted of an offense under
17 this Article or under any statute of the United States or any state relating to controlled
18 substances included in any schedule of this Article or to that paraphernalia included in Article
19 5B of Chapter 90 pleads guilty to or has been found guilty of (i) a misdemeanor under this
20 Article by possessing a controlled substance included within Schedules II through VI of this
21 Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.21, or (ii) a felony
22 under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, the court may, upon
23 application of the person not sooner than 12 months after conviction, order cancellation of the
24 judgment of conviction and expunction of the records of his arrest, indictment, or information,
25 trial and conviction. A conviction in which the judgment of conviction has been canceled and
26 the records expunged pursuant to this section shall not be thereafter deemed a conviction for
27 purposes of this section or for purposes of disqualifications or liabilities imposed by law upon
28 conviction of a crime including the additional penalties imposed for second or subsequent
29 convictions of this Article. Cancellation and expunction under this section may occur only once
30 with respect to any person. Disposition of a case under this section at the district court division
31 of the General Court of Justice shall be final for the purpose of appeal.

32 The granting of an application filed under this section shall cause the issue of an order to
33 expunge from all official records (other than the confidential file to be retained by the
34 Administrative Office of the Courts under subsection (c)) all recordation relating to the
35 petitioner's arrest, indictment, or information, trial, finding of guilty, judgment of conviction,
36 cancellation of the judgment, and expunction of records pursuant to this section.

37 The judge to whom the petition is presented is authorized to call upon a probation officer
38 for additional investigation or verification of the petitioner's conduct since conviction. If the
39 court determines that the petitioner was convicted of (i) a misdemeanor under this Article for
40 possessing a controlled substance included within Schedules II through VI of this Article, or for
41 possessing drug paraphernalia as prohibited in G.S. 90-113.21, or (ii) a felony under
42 G.S. 90-95(a)(3) for possession of less than one gram of cocaine, that he was not over 21 years
43 of age at the time of the offense, that he has been of good behavior since his conviction, that he
44 has successfully completed a drug education program approved for this purpose by the
45 Department of Health and Human Services, and that he has not been convicted of a felony or
46 misdemeanor other than a traffic violation under the laws of this State at any time prior to or
47 since the conviction for the offense in question, it shall enter an order of expunction of the
48 petitioner's court record. The effect of such order shall be to restore the petitioner in the
49 contemplation of the law to the status he occupied before arrest or indictment or information or
50 conviction. No person as to whom such order was entered shall be held thereafter under any
51 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of

1 his failures to recite or acknowledge such arrest, or indictment or information, or conviction, or
2 trial in response to any inquiry made of him for any purpose. The judge may waive the
3 condition that the petitioner attend the drug education school if the judge makes a specific
4 finding that there was no drug education school within a reasonable distance of the defendant's
5 residence or that there were specific extenuating circumstances which made it likely that the
6 petitioner would not benefit from the program of instruction.

7 The court shall also order that all law-enforcement ~~agencies~~ agencies, the Department of
8 Correction, the Division of Motor Vehicles, and any other State or local government agency
9 identified by the petitioner as bearing records of the conviction and records relating thereto
10 expunge their records of the conviction. The clerk shall forward a certified copy of the order to
11 the sheriff, chief of police, or other arresting agency, as ~~appropriate, and the appropriate and,~~
12 when applicable, to the Department of Correction, Division of Motor Vehicles, and any other
13 State or local government agency. The arresting agency shall forward the order to the State
14 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
15 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
16 Investigation.

17 The clerk of superior court in each county in North Carolina shall, as soon as practicable
18 after each term of court in his county, file with the Administrative Office of the Courts the
19 names of those persons whose judgments of convictions have been canceled and expunged
20 under the provisions of this Article, and the Administrative Office of the Courts shall maintain
21 a confidential file containing the names of persons whose judgments of convictions have been
22 canceled and expunged. The information contained in the file shall be disclosed only to judges
23 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any
24 person charged with an offense under this Article or any person filing a civil action under
25 G.S. 15A-150.1 has been previously granted cancellation and expunction of a judgment of
26 conviction pursuant to the terms of this Article."

27 **SECTION 8.** G.S. 90-113.14(b) reads as rewritten:

28 "(b) Upon the dismissal of such person, and discharge of the proceedings against him
29 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
30 of the offense, may apply to the court for an order to expunge from all official records (other
31 than the confidential file to be retained by the Administrative Office of the Courts under
32 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
33 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
34 application the following:

- 35 (1) An affidavit by the applicant that he has been of good behavior during the
36 period of probation since the decision to defer further proceedings on the
37 misdemeanor in question and has not been convicted of any felony, or
38 misdemeanor, other than a traffic violation, under the laws of the United
39 States or the laws of this State or any other state;
- 40 (2) Verified affidavits by two persons who are not related to the applicant or to
41 each other by blood or marriage, that they know the character and reputation
42 of the petitioner in the community in which he lives, and that his character
43 and reputation are good;
- 44 (3) Affidavits of the clerk of superior court, chief of police, where appropriate,
45 and sheriff of the county in which the petitioner was convicted, and, if
46 different, the county of which the petitioner is a resident, showing that the
47 applicant has not been convicted of a felony or misdemeanor other than a
48 traffic violation under the laws of this State at any time prior to the
49 conviction for the misdemeanor in question or during the period of probation
50 following the decision to defer further proceedings on the misdemeanor in
51 question.

1 The judge to whom the petition is presented is authorized to call upon a probation officer
2 for any additional investigation or verification of the petitioner's conduct during the
3 probationary period deemed desirable.

4 If the court determines, after hearing, that such person was dismissed and the proceedings
5 against him discharged and that he was not over 21 years of age at the time of the offense, it
6 shall enter such order. The effect of such order shall be to restore such person in the
7 contemplation of the law to the status he occupied before such arrest or indictment or
8 information. No person as to whom such order was entered shall be held thereafter under any
9 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
10 his failures to recite or acknowledge such arrest, or indictment or information, or trial in
11 response to any inquiry made of him for any purpose.

12 The court shall also order that said conviction and the records relating thereto be expunged
13 from the records of the court, and direct all law-enforcement ~~agencies~~ agencies, the Department
14 of Correction, the Division of Motor Vehicles, and any other State or local government
15 agencies identified by the petitioner as bearing records of the same to expunge their records of
16 the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of
17 police or other arresting agency, as ~~appropriate, and the appropriate and, when applicable, to~~
18 the Department of Correction, Division of Motor Vehicles, and any other State or local agency.
19 The sheriff, chief of police or other arresting agency, as appropriate, shall forward such order to
20 the State Bureau of Investigation with a form supplied by the State Bureau of Investigation.
21 The State Bureau of Investigation shall forward the court order in like manner to the Federal
22 Bureau of Investigation."

23 **SECTION 9.** G.S. 90-113.14(e) reads as rewritten:

24 "(e) Whenever any person who has not previously been convicted of an offense under
25 this Article or under any statute of the United States or any state relating to controlled
26 substances included in any schedule of this Article or to that paraphernalia included in Article
27 5B of Chapter 90 pleads guilty to or has been found guilty of a misdemeanor under this Article
28 by possessing a controlled substance included within Schedules II through VI of this Article,
29 the court may, upon application of the person not sooner than 12 months after conviction, order
30 cancellation of the judgment of conviction and expunction of the records of his arrest,
31 indictment, or information, trial and conviction. A conviction in which the judgment of
32 conviction has been cancelled and the records expunged pursuant to this section shall not be
33 thereafter deemed a conviction for purposes of this section or for purposes of disqualifications
34 or liabilities imposed by law upon conviction of a crime including the additional penalties
35 imposed for second or subsequent convictions of this Article. Cancellation and expunction
36 under this section may occur only once with respect to any person. Disposition of a case under
37 this section at the district court division of the General Court of Justice shall be final for the
38 purpose of appeal.

39 The granting of an application filed under this section shall cause the issue of an order to
40 expunge from all official records (other than the confidential file to be retained by the
41 Administrative Office of the Courts under subsection (c)) all recordation relating to his arrest,
42 indictment, or information, trial, finding of guilty, judgment of conviction, cancellation of the
43 judgment, and expunction of records pursuant to this section.

44 The judge to whom the petition is presented is authorized to call upon a probation officer
45 for additional investigation or verification of the petitioner's conduct since conviction. If the
46 court determines that the petitioner was convicted of a misdemeanor under this Article for
47 possessing a controlled substance included within Schedules II through VI of this Article, or for
48 possessing drug paraphernalia as prohibited by G.S. 90-113.21, that he was not over 21 years of
49 age at the time of the offense, that he has been of good behavior since his conviction, that he
50 has successfully completed a drug education program approved for this purpose by the
51 Department of Health and Human Services, and that he has not been convicted of a felony or

1 misdemeanor other than a traffic violation under the laws of this State at any time prior to or
2 since the conviction for the misdemeanor in question, it shall enter an order of expunction of
3 the petitioner's court record. The effect of such order shall be to restore the petitioner in the
4 contemplation of the law to the status he occupied before such arrest or indictment or
5 information or conviction. No person as to whom such order was entered shall be held
6 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false
7 statement by reason of his failures to recite or acknowledge such arrest, or indictment or
8 information, or conviction, or trial in response to any inquiry made of him for any purpose. The
9 judge may waive the condition that the petitioner attend the drug education school if the judge
10 makes a specific finding that there was no drug education school within a reasonable distance
11 of the defendant's residence or that there were specific extenuating circumstances which made
12 it likely that the petitioner would not benefit from the program of instruction.

13 The court shall also order that all law-enforcement ~~agencies~~ agencies, the Department of
14 Correction, the Department of Motor Vehicles, and any other State or local government
15 agencies identified by the petitioner as bearing records of the conviction and records relating
16 thereto to expunge their records of the conviction. The clerk shall forward a certified copy of
17 the order to the sheriff, chief of police, or other arresting agency, as ~~appropriate, and the~~
18 appropriate and, when applicable, to the Department of Correction, Division of Motor Vehicles,
19 and any other State or local agency. The arresting agency shall forward the order to the State
20 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
21 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
22 Investigation.

23 The clerk of superior court in each county in North Carolina shall, as soon as practicable
24 after each term of court in his county, file with the Administrative Office of the Courts the
25 names of those persons whose judgments of convictions have been cancelled and expunged
26 under the provisions of this Article, and the Administrative Office of the Courts shall maintain
27 a confidential file containing the names of persons whose judgments of convictions have been
28 cancelled and expunged. The information contained in the file shall be disclosed only to judges
29 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any
30 person charged with an offense under this Article or any person filing a civil action under
31 G.S. 15A-150.1 has been previously granted cancellation and expunction of a judgment of
32 conviction pursuant to the terms of this Article."

33 **SECTION 10.** Article 5 of Chapter 15A of the General Statutes is amended by
34 adding the following new sections to read:

35 **"§ 15A-150. State agency to notify licensed private entities of expunctions.**

36 When a State agency receives a certified copy of an order to expunge a record under
37 G.S. 14-50.30, 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14, the State agency,
38 in addition to expunging its own records pursuant to the expunction order, shall also notify any
39 private entity with which it has a licensing agreement for bulk extracts of data from the
40 agency's criminal record database to delete the record in question.

41 **"§ 15A-150.1. Duty of private entity to expunge records upon notice of expunction and to**
42 **update criminal history record information; civil liability.**

43 (a) A private entity that compiles and disseminates for compensation criminal history
44 record information shall destroy and shall not disseminate any information in the possession of
45 the entity with respect to which the entity has received notice that an order of expunction has
46 been issued.

47 (b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. §
48 1681, et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801 to 6809), a private entity
49 described by subsection (a) of this section that is licensed to access a State agency's criminal
50 history record database:

1 (1) May disseminate that information only if, within the 90-day period
2 preceding the date of dissemination, the entity: (i) originally obtains that
3 information; or (ii) receives that information as updated record information
4 to its database; and

5 (2) Shall notify the State agency if the entity sells any compilation of the
6 information to another similar entity.

7 (c) A private entity that disseminates information in violation of this section is liable for
8 any damages that are sustained as a result of the violation by the person who is the subject of
9 that information. A person who prevails in an action brought under this section is also entitled
10 to recover court costs and reasonable attorneys' fees.

11 **"§ 15A-150.2. Civil penalty; dissemination of certain criminal history information.**

12 (a) A private entity that compiles and disseminates for compensation criminal history
13 record information shall not compile or disseminate information with respect to which the
14 entity has received notice that an order of expunction has been issued under G.S. 14-50.30,
15 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14.

16 (b) A district court may issue a warning to a private entity for a first violation of
17 subsection (a) of this section. After receiving a warning for the first violation, the private entity
18 is liable to the State for a civil penalty not to exceed one thousand dollars (\$1,000) for each
19 subsequent violation.

20 (c) The attorney general or appropriate district attorney may sue to collect a civil
21 penalty under this section.

22 (d) A civil penalty collected under this section shall be deposited in the Civil Penalty
23 and Forfeiture Fund established under G.S. 115C-457.1."

24 **SECTION 11.** This act becomes effective October 1, 2009.