

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 262  
Judiciary I Committee Substitute Adopted 4/18/01  
House Committee Substitute Favorable 5/2/01

Short Title: Expunge Improper Crim. Charge/Identity Fraud.

(Public)

Sponsors:

Referred to:

February 27, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON IMPROPERLY CHARGED WITH A  
CRIMINAL OFFENSE AS A RESULT OF IDENTITY FRAUD MAY HAVE HIS  
OR HER RECORD EXPUNGED.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5 of Chapter 15A is amended by adding a new section  
to read:

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

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

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

(c) The court shall also order that the said entries shall be expunged from the records of the court and direct all law enforcement agencies, the Division of Motor Vehicles, or any other State or local government agencies bearing record of the same to

1 expunge their records of the entries. The clerk shall forward a certified copy of the order  
2 to the sheriff, chief of police, or other charging agency; and, when applicable, to the  
3 Division of Motor Vehicles and any other State or local agency. The sheriff, chief, or  
4 head of such other charging agency shall then transmit the copy of the order with the  
5 form supplied by the State Bureau of Investigation to the State Bureau of Investigation,  
6 and the State Bureau of Investigation shall forward the order to the Federal Bureau of  
7 Investigation. Upon receipt of a certified copy of the order, the agency must purge its  
8 records as required by this section. The costs of expunging these records shall not be  
9 taxed against the petitioner.

10 (d) The Division of Motor Vehicles shall expunge from its records entries made  
11 as a result of the charge or conviction ordered expunged under this section. The  
12 Division of Motor Vehicles shall also reverse any administrative actions taken against a  
13 person whose record is expunged under this section as a result of the charges or  
14 convictions expunged, including the assessment of drivers license points and drivers  
15 license suspension or revocation. Notwithstanding any other provision of this Chapter,  
16 the Division of Motor Vehicles shall provide to the person whose motor vehicle record  
17 is expunged under this section a certified corrected driver history at no cost and shall  
18 reinstate at no cost any drivers license suspended or revoked as a result of a charge or  
19 conviction expunged under this section.

20 (e) Any other applicable State or local government agency shall expunge from its  
21 records entries made as a result of the charge or conviction ordered expunged under this  
22 section. The agency shall also reverse any administrative actions taken against a person  
23 whose record is expunged under this section as a result of the charges or convictions  
24 expunged. Notwithstanding any other provision of law, the normal fee for any  
25 reinstatement of a license or privilege resulting under this section shall be waived.

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

30 **SECTION 2.** G.S. 15A-146(a) reads as rewritten:

31 "(a) If any person is charged with a crime, either a misdemeanor or a felony, or  
32 was charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and  
33 the charge is dismissed, or a finding of not guilty or not responsible is entered, that  
34 person may apply to the court of the county where the charge was brought for an order  
35 to expunge from all official records any entries relating to his apprehension or trial. The  
36 court shall hold a hearing on the application and, upon finding that the person had not  
37 previously received an expungement under this section, G.S. 15A-145, or G.S. 90-96,  
38 and that the person had not previously been convicted of any felony under the laws of  
39 the United States, this State, or any other state, the court shall order the expunction. No  
40 person as to whom such an order has been entered shall be held thereafter under any  
41 provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false

1 statement or response to any inquiry made for any purpose, by reason of his failure to  
2 recite or acknowledge any expunged entries concerning apprehension or trial."  
3           **SECTION 3.** This act becomes effective October 1, 2001, and applies to  
4 charges filed before, on, or after the effective date.