

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 262

Short Title: Expunctions/Purge Online Databases. (Public)

Sponsors: Senators Berger of Franklin; Albertson, Apodaca, Atwater, Berger of Rockingham, Dannelly, Dorsett, Goss, Graham, Hartsell, Hoyle, Jenkins, Jones, Kinnaird, Malone, McKissick, Nesbitt, Purcell, Queen, Rand, Shaw, Snow, Soles, Vaughan, and Weinstein.

Referred to: Judiciary II.

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 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. 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 the Department of Correction, all law enforcement agencies, including the Division of Motor Vehicles, and any other State or local government agencies bearing record of the same to expunge their records of the 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



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1 Investigation, and the State Bureau of Investigation shall forward the order to the Federal
2 Bureau of Investigation."

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

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

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

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

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

40 "**§ 15A-147. Expunction of records when charges are dismissed or there are findings of**
41 **not guilty as a result of identity theft.**

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

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

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

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

27 (e) Any other applicable State or local government ~~agency~~agency, including the
28 Department of Correction, shall expunge from its records entries made as a result of the charge
29 or conviction ordered expunged under this section. The agency shall also reverse any
30 administrative actions taken against a person whose record is expunged under this section as a
31 result of the charges or convictions expunged. Notwithstanding any other provision of law, the
32 normal fee for any reinstatement of a license or privilege resulting under this section shall be
33 waived.

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

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

39 "(b) The order of expunction shall include an instruction that any entries relating to the
40 person's apprehension, charge, or trial shall be expunged from the records of the court and
41 direct the Department of Correction, all law enforcement agencies, the Division of Motor
42 Vehicles, or any other State or local government agencies bearing record of the same to
43 expunge their records of the entries. The clerk shall forward a certified copy of the order to the
44 sheriff, chief of police, or other charging agency; and, when applicable, to the Department of
45 Correction, Division of Motor Vehicles-Vehicles, and any other State or local agency. The
46 sheriff, chief, or head of such other charging agency shall then transmit the copy of the order
47 with the form supplied by the State Bureau of Investigation to the State Bureau of
48 Investigation, and the State Bureau of Investigation shall forward the order to the Federal
49 Bureau of Investigation. Upon receipt of a certified copy of the order, the agency must purge its
50 records as required by this section. The costs of expunging these records shall not be taxed
51 against the petitioner."

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

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

- 9 (1) An affidavit by the applicant that he has been of good behavior during the
10 period of probation since the decision to defer further proceedings on the
11 offense in question and has not been convicted of any felony, or
12 misdemeanor, other than a traffic violation, under the laws of the United
13 States or the laws of this State or any other state;
- 14 (2) Verified affidavits by two persons who are not related to the applicant or to
15 each other by blood or marriage, that they know the character and reputation
16 of the petitioner in the community in which he lives, and that his character
17 and reputation are good;
- 18 (3) Affidavits of the clerk of superior court, chief of police, where appropriate,
19 and sheriff of the county in which the petitioner was convicted, and, if
20 different, the county of which the petitioner is a resident, showing that the
21 applicant has not been convicted of a felony or misdemeanor other than a
22 traffic violation under the laws of this State at any time prior to the
23 conviction for the offense in question or during the period of probation
24 following the decision to defer further proceedings on the offense in
25 question.

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

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

37 The court shall also order that said conviction and the records relating thereto be expunged
38 from the records of the court, and direct the Department of Correction, all law-enforcement
39 agencies—agencies, including the Division of Motor Vehicles, and any other State or local
40 government agencies bearing records of the same to expunge their records of the conviction.
41 The clerk shall forward a certified copy of the order to the sheriff, chief of police or other
42 arresting agency, as ~~appropriate~~, appropriate; and when applicable, to the Department of
43 Correction, Division of Motor Vehicles, and any other State or local government agency. ~~and~~
44 ~~the~~ The sheriff, chief of police or other arresting agency, as appropriate, shall forward such
45 order to the State Bureau of Investigation with a form supplied by the State Bureau of
46 Investigation. The State Bureau of Investigation shall forward the court order in like manner to
47 the Federal Bureau of Investigation."

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

49 "(e) Whenever any person who has not previously been convicted of an offense under
50 this Article or under any statute of the United States or any state relating to controlled
51 substances included in any schedule of this Article or to that paraphernalia included in Article

1 5B of Chapter 90 pleads guilty to or has been found guilty of (i) a misdemeanor under this
2 Article by possessing a controlled substance included within Schedules II through VI of this
3 Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.21, or (ii) a felony
4 under G.S. 90-95(a)(3) by possessing less than one gram of cocaine, the court may, upon
5 application of the person not sooner than 12 months after conviction, order cancellation of the
6 judgment of conviction and expunction of the records of his arrest, indictment, or information,
7 trial and conviction. A conviction in which the judgment of conviction has been canceled and
8 the records expunged pursuant to this section shall not be thereafter deemed a conviction for
9 purposes of this section or for purposes of disqualifications or liabilities imposed by law upon
10 conviction of a crime including the additional penalties imposed for second or subsequent
11 convictions of this Article. Cancellation and expunction under this section may occur only once
12 with respect to any person. Disposition of a case under this section at the district court division
13 of the General Court of Justice shall be final for the purpose of appeal.

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

19 The judge to whom the petition is presented is authorized to call upon a probation officer
20 for additional investigation or verification of the petitioner's conduct since conviction. If the
21 court determines that the petitioner was convicted of (i) a misdemeanor under this Article for
22 possessing a controlled substance included within Schedules II through VI of this Article, or for
23 possessing drug paraphernalia as prohibited in G.S. 90-113.21, or (ii) a felony under
24 G.S. 90-95(a)(3) for possession of less than one gram of cocaine, that he was not over 21 years
25 of age at the time of the offense, that he has been of good behavior since his conviction, that he
26 has successfully completed a drug education program approved for this purpose by the
27 Department of Health and Human Services, and that he has not been convicted of a felony or
28 misdemeanor other than a traffic violation under the laws of this State at any time prior to or
29 since the conviction for the offense in question, it shall enter an order of expunction of the
30 petitioner's court record. The effect of such order shall be to restore the petitioner in the
31 contemplation of the law to the status he occupied before arrest or indictment or information or
32 conviction. No person as to whom such order was entered shall be held thereafter under any
33 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
34 his failures to recite or acknowledge such arrest, or indictment or information, or conviction, or
35 trial in response to any inquiry made of him for any purpose. The judge may waive the
36 condition that the petitioner attend the drug education school if the judge makes a specific
37 finding that there was no drug education school within a reasonable distance of the defendant's
38 residence or that there were specific extenuating circumstances which made it likely that the
39 petitioner would not benefit from the program of instruction.

40 The court shall also order that the Department of Correction, the Division of Motor
41 Vehicles, all law-enforcement agencies—agencies, and any other State or local government
42 agency bearing records of the conviction and records relating thereto to expunge their records
43 of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of
44 police, or other arresting agency, as ~~appropriate, and the appropriate~~; and when applicable, to
45 the Department of Correction, Division of Motor Vehicles, and any other State or local
46 government agency. The arresting agency shall forward the order to the State Bureau of
47 Investigation with a form supplied by the State Bureau of Investigation. The State Bureau of
48 Investigation shall forward the court order in like manner to the Federal Bureau of
49 Investigation.

50 The clerk of superior court in each county in North Carolina shall, as soon as practicable
51 after each term of court in his county, file with the Administrative Office of the Courts the

1 names of those persons whose judgments of convictions have been canceled and expunged
2 under the provisions of this Article, and the Administrative Office of the Courts shall maintain
3 a confidential file containing the names of persons whose judgments of convictions have been
4 canceled and expunged. The information contained in the file shall be disclosed only to judges
5 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any
6 person charged with an offense under this Article has been previously granted cancellation and
7 expunction of a judgment of conviction pursuant to the terms of this Article."

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

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

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

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

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

44 The court shall also order that said conviction and the records relating thereto be expunged
45 from the records of the court, and direct the Department of Correction, all law-enforcement
46 agencies—agencies, including the Division of Motor Vehicles, and any other State or local
47 government agencies bearing records of the same to expunge their records of the conviction.
48 The clerk shall forward a certified copy of the order to the sheriff, chief of police or other
49 arresting agency, as ~~appropriate, and the appropriate;~~ and when applicable, to the Department
50 of Correction, Division of Motor Vehicles, and any other State or local agency. The sheriff,
51 chief of police or other arresting agency, as appropriate, shall forward such order to the State

1 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
2 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
3 Investigation."

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

5 "(e) Whenever any person who has not previously been convicted of an offense under
6 this Article or under any statute of the United States or any state relating to controlled
7 substances included in any schedule of this Article or to that paraphernalia included in Article
8 5B of Chapter 90 pleads guilty to or has been found guilty of a misdemeanor under this Article
9 by possessing a controlled substance included within Schedules II through VI of this Article,
10 the court may, upon application of the person not sooner than 12 months after conviction, order
11 cancellation of the judgment of conviction and expunction of the records of his arrest,
12 indictment, or information, trial and conviction. A conviction in which the judgment of
13 conviction has been cancelled and the records expunged pursuant to this section shall not be
14 thereafter deemed a conviction for purposes of this section or for purposes of disqualifications
15 or liabilities imposed by law upon conviction of a crime including the additional penalties
16 imposed for second or subsequent convictions of this Article. Cancellation and expunction
17 under this section may occur only once with respect to any person. Disposition of a case under
18 this section at the district court division of the General Court of Justice shall be final for the
19 purpose of appeal.

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

25 The judge to whom the petition is presented is authorized to call upon a probation officer
26 for additional investigation or verification of the petitioner's conduct since conviction. If the
27 court determines that the petitioner was convicted of a misdemeanor under this Article for
28 possessing a controlled substance included within Schedules II through VI of this Article, or for
29 possessing drug paraphernalia as prohibited by G.S. 90-113.21, that he was not over 21 years of
30 age at the time of the offense, that he has been of good behavior since his conviction, that he
31 has successfully completed a drug education program approved for this purpose by the
32 Department of Health and Human Services, and that he has not been convicted of a felony or
33 misdemeanor other than a traffic violation under the laws of this State at any time prior to or
34 since the conviction for the misdemeanor in question, it shall enter an order of expunction of
35 the petitioner's court record. The effect of such order shall be to restore the petitioner in the
36 contemplation of the law to the status he occupied before such arrest or indictment or
37 information or conviction. No person as to whom such order was entered shall be held
38 thereafter under any provision of any law to be guilty of perjury or otherwise giving a false
39 statement by reason of his failures to recite or acknowledge such arrest, or indictment or
40 information, or conviction, or trial in response to any inquiry made of him for any purpose. The
41 judge may waive the condition that the petitioner attend the drug education school if the judge
42 makes a specific finding that there was no drug education school within a reasonable distance
43 of the defendant's residence or that there were specific extenuating circumstances which made
44 it likely that the petitioner would not benefit from the program of instruction.

45 The court shall also order that the Department of Correction, all law-enforcement agencies
46 agencies, including the Department of Motor Vehicles, and any other State or local government
47 agencies bearing records of the conviction and records relating thereto to expunge their records
48 of the conviction. The clerk shall forward a certified copy of the order to the sheriff, chief of
49 police, or other arresting agency, as ~~appropriate, and the appropriate; and when applicable, to~~
50 the Department of Correction, Division of Motor Vehicles, and any other State or local agency.
51 The arresting agency shall forward the order to the State Bureau of Investigation with a form

1 supplied by the State Bureau of Investigation. The State Bureau of Investigation shall forward
2 the court order in like manner to the Federal Bureau of Investigation.

3 The clerk of superior court in each county in North Carolina shall, as soon as practicable
4 after each term of court in his county, file with the Administrative Office of the Courts the
5 names of those persons whose judgments of convictions have been cancelled and expunged
6 under the provisions of this Article, and the Administrative Office of the Courts shall maintain
7 a confidential file containing the names of persons whose judgments of convictions have been
8 cancelled and expunged. The information contained in the file shall be disclosed only to judges
9 of the General Court of Justice of North Carolina for the purpose of ascertaining whether any
10 person charged with an offense under this Article has been previously granted cancellation and
11 expunction of a judgment of conviction pursuant to the terms of this Article."

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

14 **"§ 15A-150. State agency to notify licensed private entities of expunctions.**

15 When a State agency receives a certified copy of an order to expunge a record under
16 G.S. 14-50.30, 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14, the State agency,
17 in addition to expunging its own records pursuant to the expunction order, shall also forward a
18 copy of the certified order to any private entity with which it has a licensing agreement for
19 either bulk extracts of data from the agency's criminal record database or for online real-time
20 access to the agency's criminal record database. The State agency shall charge a private entity
21 with which it has a licensing agreement a fee in an amount sufficient to recover costs incurred
22 by the State agency for providing the expunction information to the private entity.

23 **"§ 15A-150.1. Prohibition against dissemination to certain private entities.**

24 If a State agency receives information indicating that a private entity that purchases
25 criminal history record information from the State agency has been found by a court to have
26 committed three or more violations of G.S. 15A-150.3 by compiling or disseminating
27 information with respect to which an order of expunction has been issued, the State agency
28 shall not release any criminal history record information to that entity until the first anniversary
29 of the date of the most recent violation.

30 **"§ 15A-150.2. Duty of private entity to expunge records upon notice of expunction and to**
31 **update criminal history record information; civil liability.**

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

36 (b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. §
37 1681, et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801 to 6809), a private entity
38 described by subsection (a) of this section that is licensed to access a State agency's criminal
39 history record database:

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

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

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

50 **"§ 15A-150.3. Civil penalty: dissemination of certain criminal history information.**

1 (a) A private entity that compiles and disseminates for compensation criminal history
2 record information shall not compile or disseminate information with respect to which the
3 entity has received notice that an order of expunction has been issued under G.S. 14-50.30,
4 15A-145, 15A-146, 15A-147, 15A-149, 90-96, or 90-113.14.

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

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

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

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