

NC Equal Access to Justice

COMMISSION

A RESOLUTION OF THE NORTH CAROLINA EQUAL ACCESS TO JUSTICE COMMISSION

Whereas, the North Carolina Equal Access to Justice Commission was established by the Supreme Court of North Carolina as a body that includes representatives from bar organizations; the judiciary; legal aid providers; the legislature; the business, philanthropic, and client communities; and the law schools, and that these representatives are united in an effort to create a deeper understanding and broader support within the bar, the judiciary, and the public for access to justice throughout North Carolina, and to assist that effort through leadership and planning;

Whereas, North Carolina's criminal justice system should hold individuals accountable for the commission of criminal acts while facilitating the successful reintegration of individuals with criminal records in a manner that enhances community safety;

Whereas, stable employment and housing are the best predictors of post-supervision success;

Whereas, citizens with criminal records are often automatically disqualified from employment, housing, and educational opportunities by civil sanctions and private hiring practices;

Whereas, pervasive automatic disqualifications undermine the ability of citizens with criminal records to be productive, law-abiding citizens and thereby contribute to a two-year re-arrest rate of 40 percent;

Whereas, Chapter 15A, Section 145.5 of the North Carolina General Statutes provides courts the discretion to expunge a single nonviolent misdemeanor or felony conviction if the petitioner has maintained good behavior for at least fifteen years after the conviction;

Whereas, an individual granted an expungement of a criminal conviction is restored, according to state law, to the status that he or she occupied before the conviction and may truthfully deny that the conviction and underlying arrest ever occurred;

Whereas, only 1,020 individuals have been granted an expungement pursuant to Chapter 15A, Section 145.5 since the statute's enactment in 2012;

Whereas, several states, including Arkansas, Louisiana, Tennessee, and Utah, provide for expungement or sealing of single nonviolent convictions after significantly shorter periods of good behavior;

Whereas, Chapter 15A, Article 6 of the North Carolina General Statutes gives courts the discretion to grant a certificate of relief to individuals with a single misdemeanor or low-level felony conviction if the petitioner has maintained good behavior for at least one year after sentence completion;

Whereas, a certificate of relief transforms certain automatic civil sanctions into discretionary civil sanctions, restoring the discretion of public agencies to grant a range of privileges and licensures to certificate holders;

Whereas, a certificate of relief provides evidence of due care and shields the employer or landlord of a certificate holder from the threat of negligence liability;

Whereas, a certificate of relief does not eliminate or obscure a certificate holder's criminal record or allow him or her to deny that the conviction occurred;

Whereas, obtaining a certificate of relief or expunging a criminal record restores employment, housing, and educational opportunities to individuals with criminal records;

Whereas, research shows that restoring employment, housing, and educational opportunities to individuals with criminal records reduces recidivism, enhances community safety, preserves state resources, strengthens families, and makes communities more fair and equitable;

NOW, THEREFORE, BE IT RESOLVED, that the North Carolina Equal Access to Justice Commission supports and recommends that the North Carolina General Assembly enact statutory changes that significantly broaden eligibility for expunging criminal records and obtaining certificates of relief.

This the 8th day of March 2017.

A handwritten signature in cursive script that reads "Mark Martin". The signature is written in black ink and is positioned above a horizontal line.

Mark Martin
Chief Justice, Supreme Court of North Carolina
Chair, North Carolina Equal Access to Justice Commission