

## What is an expunction?

A criminal record often gives rise to significant barriers to employment, housing, and other benefits and opportunities essential to prosperity and stability. In North Carolina, an expunction (also called an “expungement”) is the destruction of a criminal record by court order. This restores the individual, in the view of the law, to the status he or she occupied before the criminal record existed. An individual who is granted an expunction may truthfully deny that the criminal incident occurred. The primary exception to this is for purposes of federal immigration. Please see [N.C.G.S. §15A-151](#) for other exceptions.

## Who is eligible for an expunction?

There is no single law covering all expunctions in North Carolina, but rather many individual statutes covering various types of criminal records. Contrary to common belief, opportunities to expunge a criminal record in North Carolina are actually quite limited. Expunction opportunities in North Carolina are generally limited to the following three categories:

- A first-time conviction of a “nonviolent offense”<sup>1</sup>
- A first-time conviction of certain offenses committed before age 18 or 22
- A charge that was dismissed or disposed “not guilty”

## How do you determine eligibility for an expunction?

To determine whether someone is eligible for an expunction, refer to the statutes and to the reference table on the reverse side of this sheet. The key factors to determine eligibility are:

- What was the disposition of the offense (guilty, not guilty, dismissed, etc.)
- How old was the person at the time of the offense (under 18 or 22)
- How do you classify the offense (violent vs. nonviolent, controlled substance, etc.)
- Does the person have any previous or subsequent convictions that would disqualify them
- Has the relevant waiting period been satisfied

## Sample Expunction Scenarios:

Criminal Record	Eligible for Expunction?
One-time nonviolent misdemeanor conviction	Yes ✓
2011 (F) and 2014 (M) convictions, 2016 dismissed charge	No ✗
March 2015 (M) & April 2015 (M) convictions, dismissed charges from 2012, 2016, 2017	(M) convictions: No ✗ A1 dismissed charges: Yes ✓
Multiple nonviolent (M) and (F) convictions <i>from the same incident and disposed in the same session of court</i>	Yes ✓

## What are the recent changes to the law?

There have been significant reforms to the expunction process and expunction eligibility as a result of [Session Law 2017-195](#) signed into law by Governor Cooper on July 28, 2017. The following are some of the key differences for expunction petitions filed after December 1, 2017:

- The wait periods for expunction of a nonviolent misdemeanors and felonies have been reduced from 15 years to 5 and 10 years, respectively
- A person can now expunge multiple dismissed charges and charges disposed “not guilty”. As long as the person has not been convicted of a felony, they are eligible to expunge all such charges.

<sup>1</sup> “Nonviolent Offense” is a term of art that is defined in N.C.G.S. § 15A-145.5(a). It includes any felony or misdemeanor except those listed in the statute. Examples of offenses excluded from the definition are class A-G felonies, A1 misdemeanors, offenses involving assault as an essential element, or those requiring sex offender registration. See the statute for the full list offenses.

## Expunction Eligibility Overview

Expunction Type	Expunction Statute	Disqualifying Previous Conviction	Disqualifying Subsequent Conviction	Wait Period	Disqualifying Previous Expunction	Judicial Discretion
Juvenile Record	<b>7B-3200(b)</b>	----	Juvenile adjudication; (M) or (F) as adult	18 months since release from juvenile court jurisdiction (and at least 18 years old)	----	No
Misdemeanor Under Age 18	<b>15A-145</b>	(M); (F)	(M) or (F) during wait period	2 years	----	No
Gang Offense Under Age 18	<b>15A-145.1</b>	(M); (F)	(M) or (F) during wait period	2 years	----	No
Controlled Substance Conviction Under Age 22	<b>15A-145.2(c)</b>	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.2	Yes*
Toxic Vapor Conviction Under Age 22	<b>15A-145.3(c)</b>	(M); (F)	(M) involving drugs*; (F)	1 year	15A-145.3	Yes*
Nonviolent Felony Under Age 18	<b>15A-145.4</b>	(M); (F)	(M) or (F) during wait period	4 years	15A-145—15A-146	Yes
Nonviolent Offense at Any Age	<b>15A-145.5</b>	(M); (F)	(M); (F)	M= 5 years; F= 10 years	15A-145—15A-145.5	Yes
Prostitution Offense	<b>15A-145.6</b>	violent (F) or (M)	(M); (F)	3 years**	15A-145—15A-145.6	No
Charge Not Resulting in Conviction	<b>15A-146</b>	(F)	(F)	Immediate	----	No
Identity Theft/Mistaken Identity***	<b>15A-147</b>	----	----	Immediate	----	No
Pardon of Innocence	<b>15A-149</b>	----	----	Immediate	----	No
<b>Certificate of Relief</b>		(M); (F)	(M); (F)	1 year after sentence complete	----	Yes

*Notes: (1) Convictions of traffic violations do not impact expunction eligibility; (2) Wait periods begin at the date of conviction unless otherwise noted; \*This reflects a novel but successful interpretation of the law. \*\*Wait period for prostitution offense is waived if product of human trafficking. \*\*\*"Mistaken identity" is "the erroneous arrest of a person for a crime as a result of misidentification by a witness or law enforcement, confusion on the part of a witness or law enforcement as to the identity of the person who committed the crime, misinformation provided to law enforcement as to the identity of the person who committed the crime, or some other mistake on the part of a witness or law enforcement as to the identity of the person who committed the crime."*

For additional information, please see the [2018 Summary of NC Expunctions](#) or email [danielb@ncjustice.org](mailto:danielb@ncjustice.org).