



**SOUTHERN
COALITION**
for SOCIAL JUSTICE

UMAR MUHAMMAD CLEAN SLATE

TOOLKIT // 2024



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UMAR MUHAMMAD

Umar Muhammad was an upbeat, passionate advocate committed to helping people of color and those impacted by the criminal justice system.

He joined Southern Coalition for Social Justice (SCSJ) as a community organizer in 2014, where he fought against discrimination on behalf of justice-involved individuals. Umar was also a local leader for All of Us or None, an organization that lifts the voices of those impacted by mass incarceration and the prison-industrial complex.

Through SCSJ and All of Us or None, Umar helped organize numerous Clean Slate Clinics that served over 60 counties throughout North Carolina. The Clean

Slate Clinics provided expunction relief to individuals with a criminal record. The Clean Slate Clinics supported individuals working to address the collateral consequences of having a criminal record, including barriers to employment, education, housing, and occupational licenses.

Tragically, Umar passed away from a motorcycle accident in 2017. In 2020, SCSJ published its first Umar Muhammad Clean Slate Toolkit to honor Umar's commitment to SCSJ's Clean Slate Project. The Umar Muhammad Clean Slate Toolkit is a free resource that provides a step-by-step guide to the expunction process.

THE PURPOSE OF THIS TOOLKIT

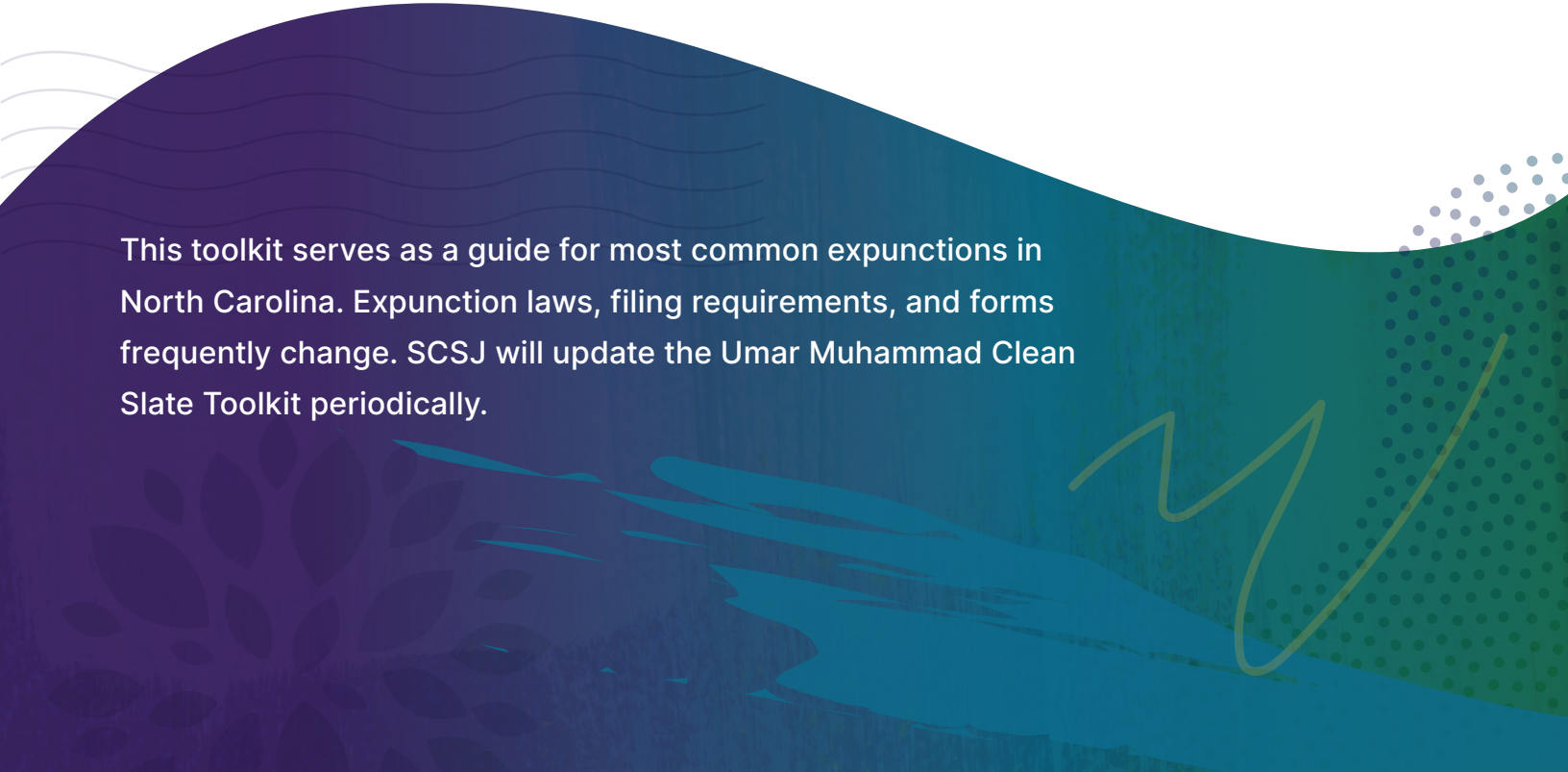


SCSJ continues to honor Umar Muhammad and his important work by providing resources and information to individuals burdened with a criminal record. The purpose of the Umar Muhammad Clean Slate toolkit is to help individuals determine their expunction relief eligibility and the steps to remove charges and convictions from their records, making it possible for them to economically and socially better their lives. This toolkit provides resources for those seeking expunction relief and can assist attorneys in representing individuals with criminal records. We dedicate this toolkit to Umar, who opened every Clean Slate Clinic by stating,

“

YOU ARE NOT THE SUM OF YOUR WORST MISTAKES.

”



This toolkit serves as a guide for most common expunctions in North Carolina. Expunction laws, filing requirements, and forms frequently change. SCSJ will update the Umar Muhammad Clean Slate Toolkit periodically.

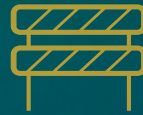
EXPUNCTION



WHAT IS AN EXPUNCTION OR EXPUNGEMENT?

An expunction, or expungement, removes a person's criminal record by court order. An expunction restores an individual to their status before the criminal record existed. Once a judge grants an expunction, an individual may truthfully and without committing perjury or a false statement deny or refuse to acknowledge that the criminal incident occurred. However, there are exceptions. Federal immigration purposes are one of the most important exceptions.

See North Carolina General Statutes § 15A-151 to learn more about state level exceptions: https://www.ncleg.gov/enactedlegislation/statutes/pdf/bysection/chapter_15a/gs_15a-151.pdf.



WHAT ARE COLLATERAL CONSEQUENCES?

Collateral consequences are significant barriers to employment, housing, unification, and other benefits and opportunities individuals face due to their criminal record. Individuals with a criminal record may suffer statutory limitations and exclusions in the private sector. Unfortunately, collateral consequences disproportionately impact Black, Brown, and economically disadvantaged communities.

To learn more about the collateral consequences justice-impacted individuals may face in North Carolina, access the UNC School of Government Collateral Consequences Assessment Tool (C-CAT) for free here: <https://ccat.sog.unc.edu/>.



RECENT EXPANSION OF NC EXPUNCTION LAWS

Over the last few years, North Carolina's historically narrow expunction laws have been expanded. Some of those changes include:

THE SECOND CHANCE ACT (EFFECTIVE DEC. 1, 2020)

- Expunge all misdemeanors and Class H and I felony convictions (except traffic infractions and offenses that require an offender to register on the sex offense registry) that were received when the petitioner was 16 or 17 years old and before December 1, 2019.
- Expunge dismissed and not guilty charges even if the petitioner has a felony conviction.
- Expunge One (1) nonviolent misdemeanor after five (5) years of good behavior.
- Expunge multiple nonviolent misdemeanors after seven (7) years of good behavior.
- Expunge One (1) nonviolent felony after ten (10) years of good behavior.
- Expunge certain dismissed charges on or after December 1, 2021, will be automatically expunged. (Please note that the Act's automatic expunction process has been paused by the legislature.)

EXPAND EXPUNCTION ELIGIBILITY ACT (EFFECTIVE DEC. 1, 2021)

- Expunge up to three (3) nonviolent felony convictions if each of the convictions occurred in the same 24-month period.
- Expunge felony breaking and entering into a motor vehicle.
- A DUI does not disqualify a petitioner from expunging eligible nonviolent convictions.

SESSION LAW 2023-103 (EFFECTIVE DEC. 1, 2023)

- Expunge one (1) felony conviction for Breaking and Entering under G.S. § 14-54(a) after a 15-year wait period.



WHAT DOES AN INDIVIDUAL NEED TO EXPUNGE CHARGES OR CONVICTIONS FROM THEIR CRIMINAL RECORD?

The expunction filing process for expunctions and certificates of relief varies depending on the type of expunction and the county where the petition is filed. Below is a list of typical things petitioners may need to file an expunction. However, we recommend petitioners call the county clerk of court to learn county-specific requirements for the petition they plan to file.



An accurate understanding of petitioner's entire criminal record



Full details of the specific criminal record the person is seeking to expunge



Reliable mailing address and phone number



A copy of the correct expunction petition



Some expunction petitions require filing fees (fee waivers can be requested)

HOW TO FILE AN EXPUNCTION PETITION

- 01 Obtain and review a copy of the petitioner's criminal record
- 02 Determine the petitioner's expunction eligibility
- 03 Identify relevant petitions for eligible expunctions
- 04 Fill out and complete the petition form
- 05 Fill out and complete any required supporting documents, such as the affidavits of the defendant and good character
- 06 Prepare to pay filing fees or complete indigency forms
- 07 File the expunction petition in the county clerk of court's office where the petitioner received their charges or convictions
- 08 Ask the county clerk of court for a file-stamped copy of the expunction the petitioner filed and a receipt if the petitioner paid filing fees
- 09 Request a judge's signature. Some expunctions require a judge's signature before filing the petition with the county clerk of court. The county clerk of court will let the petitioner know if they need a judge's signature and where they need to go to obtain that signature
- 10 Wait to receive the petitioner's granted certified expunction petition via mail from the county clerk of court
- 11 If an expunction requires a hearing, the petitioner must wait for the county clerk of court to notify them of a hearing date
- 12 If a hearing is required, prepare for the petitioner's hearing
- 13 The petitioner should keep their granted certified expunction petition safe for their records


STEP 1

DIFFERENT WAYS TO OBTAIN AND REVIEW A COPY OF THE PETITIONER'S CRIMINAL RECORD

There are several ways to gain access to a criminal record. We recommend petitioners obtain their records in each county where they were charged and convicted and request a statewide search.

1. eCOURTS PORTAL

North Carolina courts are transitioning from paper to digital. As of February 2024, eCourts is live in the following counties: Beaufort, Camden, Chowan, Currituck, Dare, Gates, Harnett, Hyde, Johnston, Lee, Martin, Mecklenburg, Pasquotank, Perquimans, Tyrrell, Wake and Washington. The remaining North Carolina counties are expected to go live by 2025.

 **eCOURTS PORTAL:** eCourts Portal (tylertech.cloud)

2. REQUEST A CERTIFIED CRIMINAL RECORD FROM THE CLERK OF SUPERIOR COURT (RECOMMENDED)

Petitioners can obtain certified criminal records at the Clerk of Superior Court at the courthouse in the county where they were charged with a crime. Please note that a criminal record provided by the Clerk of Court will only contain records of charges and convictions in that county. Petitioners must complete and submit the AOC-CR-314 form to obtain a certified copy of a criminal record. Certified copies of a criminal record cost \$25.

 **AOC-CR-314 FORM:** <https://www.nccourts.gov/documents/forms/criminal-record-search>

3. PUBLIC CIPRS TERMINALS AT THE CLERK'S OFFICE

Petitioners may search their criminal record using the public computers available in the clerk's office at any local courthouse to access the Court Information Public Records Search (CIPRS). CIPRS allows users to email or print a hard copy of the record—most counties charge fees for printing hard copies.

4. NC STATE BUREAU OF INVESTIGATION (SBI) (RECOMMENDED)

Petitioners may request a copy of their statewide criminal record from the NC SBI. Petitioners must submit a Right to Review form and a completed fingerprint card. The cost of the request is \$14. Sheriff's departments usually charge \$25 to complete a fingerprint card.

RIGHT TO REVIEW FORM: <https://www.ncsbi.gov/SBI-Forms.aspx>

HOW TO ACCESS THE RIGHT TO REVIEW FORM

Visit the link above, then, under citizen forms, click the “Fillable Form” link next to “Background Check for NC Criminal Records (Right to Review Process) PDF” to download the fillable form.



5. ACIS CRIMINAL RECORD SEARCH (ONLY RECOMMENDED FOR ATTORNEYS)

Petitioners may use North Carolina's Automated Criminal/Infractions System (ACIS) to obtain local and statewide criminal records. However, ACIS is challenging to interpret. ACIS has not been widely used since CIPRS was created.

ACIS CITIZEN GUIDE: https://www.nccourts.gov/assets/documents/publications/ACIS_Inquiry_RG.pdf?VersionId=n5DVrIE3ODObw13mPuMpNs0uEecpTaBN



STEP 2

DETERMINE THE PETITIONER'S EXPUNCTION ELIGIBILITY

▶ THE MOST COMMON EXPUNCTIONS

DISMISSALS AND NOT GUILTY EXPUNCTIONS (NCGS 15A-146)

https://www.ncleg.gov/enactedlegislation/statutes/pdf/bysection/chapter_15a/ga_15a-146.pdf

Relief is mandatory in cases where all charges were dismissed or disposed of as not guilty. Counties define a case as an individual case number. Relief is discretionary in cases where a charge is dismissed or disposed of as not guilty and where a charge in the same case resulted in a conviction or is pending. Petitioners do not owe filing fees unless the dismissal resulted from a diversionary program, conditional discharge, or prosecutorial deferral. Then, there is a \$175 filing fee. If the petitioner cannot afford the filing fee, they may file indigency fee waiver forms instead.

DISMISSALS AND NOT GUILTY EXPUNCTIONS

Petitioner qualifies for the expunction if the below is true:

- Petitioner has misdemeanor and/or felony charges disposed of by dismissal or a finding of not guilty



INDIGENCY FORMS: <https://scsj.app.box.com/folder/239812646013>

YOUTHFUL CONVICTIONS EXPUNCTIONS (NCGS 15A-145.8A)

https://www.ncleg.gov/enactedlegislation/statutes/pdf/bysection/chapter_15a/gs_15a-145.8a.pdf

Petitioners can find the classification of their conviction (e.g., Class H felony) by looking up their conviction's North Carolina general statute at <https://www.ncleg.gov/Laws/GeneralStatutes>. The North Carolina Sentencing and Policy Advisory Commission also lists the classification of felony offenses committed on or after December 1, 2020. <https://www.ncids.org/wp-content/uploads/2021/10/Felony-List-2020.pdf>

CERTAIN YOUTHFUL CONVICTIONS BEFORE RAISE THE AGE EXPUNCTIONS

Petitioner qualifies for the expunction if all of the below are true:

- Petitioner was 16 or 17 years old at the time of the offense, and the offense date was before December 1, 2019
- Petitioner has misdemeanor youthful convictions except for misdemeanor sexual battery and Chapter 20 offenses (traffic) or Class H or I felony youthful convictions
- Petitioner completed any active sentence, period of probation, and post-release supervision ordered for the offense
- Petitioner has no outstanding restitution orders or civil judgments for restitution

If the petitioner meets all the requirements, relief is mandatory. Petitioners must pay a filing fee of \$175. If petitioners cannot afford the filing fee, they may file indigency fee waiver forms instead. The petitioner must also provide the district attorney notice before filing the expunction petition. To notify the district attorney, the petitioner must provide a copy of the expunction petition and affidavits to any employee at the district attorney's office. Providing notice to the district attorney gives the district attorney a chance to notify the victims. Victims have a right to be present at the hearing regarding the expunction.



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INDIGENCY FORMS: <https://scsj.app.box.com/folder/239812646013>



NONVIOLENT MISDEMEANOR OR FELONY EXPUNCTION (ANY AGE) (NCGS 15A-145.5)

https://www.ncleg.gov/enactedlegislation/statutes/pdf/bysection/chapter_15a/gs_15a-145.5.pdf

Petitioners can expunge up to three nonviolent felonies or one or multiple nonviolent misdemeanor convictions. Petitioners typically use this expunction to expunge adult convictions where they were 18 years old or older at the time of the offense.

Multiple convictions can be treated as one if the convictions occurred during the same court session (see NCGS 15A-145.5(b)). If filing in multiple counties, the petitioner must file all petitions within 30 days of each other. All adult convictions must be petitioned for expunction simultaneously. The petitioner waives the right to expunge a conviction if it is not listed on the petition.

Disqualified Convictions (Violent Convictions)

- Class A-G felonies or Class A1 misdemeanors
- An offense that includes assault as an essential element of the offense
- An offense that requires sex offender registration
- Sex-related and stalking offenses
- Any felony offense in Chapter 90 that involves methamphetamines, heroin, or possession with intent to sell or deliver cocaine
- Hate crimes
- Any offense contaminating food or drink to render one mentally incapacitated or physically helpless
- Breaking and entering with intent to terrorize or injure (see NCGS 14-54(a) and (a1))
- Any felony offense in which a commercial motor vehicle was used in the commission of the crime
- Any offense that is an attempt to commit any of the offenses on the disqualified convictions list

GENERAL REQUIREMENTS FOR NONVIOLENT MISDEMEANOR OR FELONY EXPUNCTIONS

Petitioner qualifies for the expunction if all of the below are true:

- Petitioner has a nonviolent felony or misdemeanor conviction on their criminal record (See below for a list of disqualified convictions)
- Petitioner does not have any outstanding warrants or pending criminal charges
- Petitioner does not have any outstanding restitution orders or civil judgments for restitution

NONVIOLENT MISDEMEANOR EXPUNCTION SPECIFIC REQUIREMENTS

EXPUNCTION OF ONE FIRST-TIME NONVIOLENT MISDEMEANOR CONVICTION

Petitioner qualifies for the expunction if all of the general requirements above and all of the below are true:

- Petitioner has no convictions (other than traffic infractions and DUI offenses) PRIOR to the misdemeanor conviction for which they are seeking expunction
- Petitioner completed their criminal sentence, including probation
- Petitioner has at least five years of no other felony or misdemeanor convictions since the date of conviction

Relief is mandatory

NONVIOLENT FELONY EXPUNCTION REQUIREMENTS SPECIFIC REQUIREMENTS

EXPUNCTION OF ONE FIRST-TIME NONVIOLENT FELONY CONVICTION

- Petitioner has no other felony convictions or disqualifying misdemeanor convictions
- Petitioner completed their criminal sentence, including probation
- Petitioner has at least ten years of no other felony or misdemeanor convictions since the date of sentence completion or after any active sentence, period of probation, or post-release supervision, whichever occurs later (the waiting period for a felony conviction under GS 14-54(a) is fifteen years)

Relief is discretionary

EXPUNCTION OF MULTIPLE MISDEMEANOR CONVICTIONS

Petitioner qualifies for the expunction if all of the general requirements above and all of the below are true:

- Petitioner has no disqualifying convictions at all
- Petitioner completed the terms of their criminal sentence, including probation
- At least seven years have passed since the date of conviction or the completion of any active sentence, period or probation, or post-release, whichever is later

Relief is mandatory

EXPUNCTION OF UP TO THREE NONVIOLENT FELONY CONVICTIONS

- Petitioner offense dates for the felonies are within the same 24-month period
- Petitioner completed the terms of their criminal sentence, including probation
- At least 20 years have passed since the date of conviction of the last conviction listed on the petition or any active sentence, period or probation, or post-release, whichever is later

Relief is discretionary

Petitioners must pay a filing fee of \$175. If petitioners cannot afford the filing fee, they may file indigency fee waiver forms instead. Petitioners must also file an affidavit of the defendant and two affidavits of good character. The petitioner must sign the affidavits before a notary public. Two individuals must sign the affidavits of good character before a notary public. These two individuals must be unrelated to each other and to the petitioner and must know the petitioner's reputation in the community.

The petitioner must also provide the district attorney notice before filing the expunction petition. To notify the district attorney, the petitioner must provide a copy of the expunction petition and affidavits to any employee at the district attorney's office. Providing notice to the district attorney gives the district attorney a chance to notify the victims. Victims have a right to be present at the hearing regarding the expunction.



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INDIGENCY FORMS: <https://scsj.app.box.com/folder/239812646013>



▶ EXPUNCTIONS BASED ON AGE

MISDEMEANOR CONVICTION FOR POSSESSION OF ALCOHOL UNDER AGE 21 NON-TRAFFIC MISDEMEANOR CONVICTION UNDER AGE 18 (NCGS 15A-145)

https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_15a/gs_15a-145.html

MISDEMEANOR CONVICTION FOR POSSESSION OF ALCOHOL UNDER AGE 21

NON-TRAFFIC MISDEMEANOR CONVICTION UNDER AGE 18

Petitioner qualifies for the expunction if all of the below are true:

- Petitioner has a misdemeanor conviction of possession of alcohol under the age of 21 or a non-traffic misdemeanor conviction committed before the age of 18 years old
- Petitioner has no previous misdemeanor or felony convictions other than traffic infractions
- At least two years have passed since the date of conviction
- Petitioner has no subsequent misdemeanor or felony convictions, other than traffic infractions, within the 2-year waiting period
- Petitioner has fully completed their sentence
- Petitioner has no outstanding restitution orders or civil judgments for restitution

Relief is mandatory if the petitioner meets all of the requirements above.

Petitioners must pay a filing fee of \$175. If petitioners cannot afford the filing fee, they may file indigency fee waiver forms instead. Petitioners must also file an affidavit of the defendant and two affidavits of good character. The petitioner must sign the affidavits before a notary public. Two individuals must sign the affidavits of good character before a notary public. These two individuals must be unrelated to each other and to the petitioner and must know the petitioner's reputation in the community.

The petitioner must also provide the district attorney notice before filing the expunction petition. To notify the district attorney, the petitioner must provide a copy of the expunction petition and affidavits to any employee at the district attorney's office. Providing notice to the district attorney gives the district attorney a chance to notify the victims. Victims have a right to be present at the hearing regarding the expunction.



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► RELIEF FROM COLLATERAL CONSEQUENCES

CERTIFICATE OF RELIEF (NCGS 15A-173)

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_15a/Article_6.pdf

A certificate of relief is NOT an expunction. It allows a person convicted of a crime to apply for relief from collateral consequences that could impede their reintegration into society. A certificate of relief relieves the person of all mandatory collateral sanctions except those listed in G.S. 15A-173.3. A certificate of relief does not prevent a private entity from imposing discretionary disqualifications based on the conviction, but it does provide evidence of “due care” and would shield the private entity from negligence liability. A private entity may favorably consider the certificate of relief in deciding whether to impose the disqualification.

A certificate of relief may provide the following type of relief:

1. Improve employment opportunities by protecting employers from negligent hiring liability.
2. Improve housing opportunities by protecting landlords from negligent leasing liability.
3. Allow favorable discretionary decisions.

Petitioners must file an individual certificate of relief in each county where they have a conviction.

Petitioners can find the classification of their conviction by looking up their conviction’s North Carolina general statute at <https://www.ncleg.gov/Laws/GeneralStatutes>. The North Carolina Sentencing and Policy Advisory Commission also

CERTIFICATE OF RELIEF

Petitioner qualifies for a certification of relief if all of the below is true:

- Petitioner has any amount of misdemeanor convictions and no more than three H or I felony convictions *H & I felony convictions disposed of in a single session of court are considered one conviction (convictions that share the same disposition date on the petitioner’s criminal record)
- At least 12 months have passed since the date of sentence completion of all convictions listed on the petition
- Petitioner is engaged in or seeking lawful occupation or activity or has a lawful source of income
- Petitioner must attest that they did not violate the terms of any criminal sentence or that failure is justified, excused, involuntary, or insubstantial
- Petitioner must have no pending criminal cases
- Petitioner must attest that granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual
- Petitioner has not filed a previous petition for Certificate of Relief for the listed convictions, or at least 12 months have passed since the denial of the previous petition

lists the classification of felony offenses committed on or after December 1, 2020. <https://www.ncids.org/wp-content/uploads/2021/10/Felony-List-2020.pdf>

Petitioners must pay a filing fee of \$50. If petitioners cannot afford the filing fee, they may file indigency fee waiver forms instead. Petitioners must also file an affidavit of the defendant and two affidavits of good character. The petitioner must sign the affidavits before a notary public. Two individuals must sign the affidavits of good character before a notary public. These two individuals must be unrelated to each other and to the petitioner and must know the petitioner's reputation in the community.

The petitioner must also provide the district attorney notice before filing the expunction petition. To notify the district attorney, the petitioner must provide a copy of the expunction petition and affidavits to any employee at the district attorney's office. Providing notice to the district attorney gives the district attorney a chance to notify the victims. Victims have a right to be present at the hearing regarding the expunction.



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▶ LESS COMMON EXPUNCTIONS

EXPUNCTION TYPE	GENERAL STATUTE	AOC FORM	FILING FEE AMOUNT	AFFIDAVITS REQUIRED	NOTICE REQUIRED
Drug Conviction Under Age 22	NCGS 15A-145.2(c)	266	\$175	None	None
Toxic Vapors Conviction Under Age 22	NCGS 15A-145.3 (c)	268	\$175	None	None
Prostitution Conviction	NCGS 15A-145.6	282	\$175	Affidavit of the Defendant; Affidavits of Good Character (2), use form J-904	Yes
Nonviolent Conviction of Human Trafficking Victim	NCGS 15A-145.9	290	None	Affidavit of the Defendant	Yes
Identity Theft/ Misidentification	NCGS 15A-147	265	None	None	Yes
Juvenile Record of Delinquent or Undisciplined – Dismissal	NCGS 7B-3200 (h)	J-909	None	None	No
Juvenile Record of Undisciplined – Adjudicated	NCGS 7B- 3200 (a)	J-903 & J-904	None	Affidavits of Good Character (2), use form J-904	No
Juvenile Record of Delinquent	NCGS 7B-3200 (b)	J-903 & J-9044	None	Affidavits of Good Character (2), use form J-904	No

Petitioners can access the North Carolina general statutes on North Carolina’s General Assembly website under North Carolina General Statutes. <https://www.ncleg.gov/Laws/GeneralStatutes>



AFFIDAVITS: <https://scsj.app.box.com/folder/239811565725>



STEP 3

IDENTIFY RELEVANT PETITION FOR ELIGIBLE EXPUNCTIONS

Petitioners can access expunction petition forms at the North Carolina Judicial Branch (nccourts.gov). Petitioners can find forms by searching form numbers, keywords, or general statutes. Please note that the North Carolina Administrative Office of the Courts often revises expunction forms or AOC numbers. We recommend petitioners check for revised expunction forms and numbers each year in January.

EXPUNCTION PETITIONS	AOC #	LINK TO MOST RECENT FORM AS OF 11/14/2023
Dismissals Expunction	AOC-CR-287	https://www.nccourts.gov/assets/documents/forms/cr287_1.pdf
Not Guilty or Not Responsible Expunction	AOC-CR-288	https://www.nccourts.gov/assets/documents/forms/cr288_1.pdf
Youthful Convictions Expunction	AOC-CR-293	https://www.nccourts.gov/assets/documents/forms/cr293_0.pdf
Nonviolent Misdemeanor Expunction	AOC-CR-298	https://www.nccourts.gov/assets/documents/forms/cr298_4.pdf
Nonviolent Felony Expunction	AOC-CR-297	https://www.nccourts.gov/assets/documents/forms/cr297_2.pdf
Misdemeanor Conviction for Possession of Alcohol Under Age 21 and Non-Traffic Misdemeanor Conviction Under Age 18	AOC-CR-286	https://www.nccourts.gov/assets/documents/forms/cr286_3.pdf
Drug Conviction Under Age 22	AOC-CR-266	https://www.nccourts.gov/assets/documents/forms/cr266_3.pdf
Toxic Vapors Conviction Under Age 22 Expunction	AOC-268	https://www.nccourts.gov/assets/documents/forms/cr268_3.pdf
Certificate of Relief	AOC-273	https://www.nccourts.gov/assets/documents/forms/cr273_2.pdf

STEP 4

FILL OUT AND COMPLETE THE PETITION FORM

Please see some examples of completed petition forms on the following two pages. The names and information below are fictitious and provided solely for educational purposes.

HOPE FOR
THE FUTURE

DURHAM County

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS				PETITION AND ORDER OF EXPUNCTION UNDER G.S. 15A-146(a) OR G.S. 15A-146(a1) (CHARGE(S) DISMISSED)	
Name And Address Of Petitioner (type or print full name) Jane E. Doe 5036 Doe Lane Durham, NC 27703				G.S. 15A-146, 15A-150	
Name And Address Of Petitioner's Attorney For Expunction Petition Attorney Erica Banks Justice for All Alliance PO Box 66541 Durham, NC 27707 P: 919-898-0988					
Drivers License No. 1234567	State NC	Race B	Sex F		
Date Of Birth 04/15/1990	Full Social Security No. 271-54-8892	Age At Time Of Offense 23			

NOTE TO PETITIONER: List the arresting agency and any State or local government agency that has a record of your case. You **must** provide complete information for each agency. The clerk of superior court will send a copy of this order, if granted, to the agency name(s) and address(es) provided below. The clerk will **not** provide addresses for you. Do not list the courts, the State Bureau of Investigation, the Department of Adult Correction, or the Division of Motor Vehicles; if the order is granted, those agencies will be notified automatically. Do not list any private entity, like a company that provides criminal background checks. The clerk will not send a copy of this order to any entity that is not an agency of the State of North Carolina or one of its local governments. A private entity required to expunge records will be notified directly by the State or local agencies that distribute criminal justice information to that entity.

Name And Address Of Arresting Agency Durham County Sheriff's Office PO Box 170 Durham, NC 27702	Name And Address Of Other Agency (if any) Durham Police Department 602 East Main Street Durham, NC 27701	Name And Address Of Other Agency (if any)
--	---	---

Check here to indicate that additional agencies and/or additional file nos. and offenses are listed on an AOC-CR-285 form that is attached to this petition. (attach form)

File No.(s)	Date Of Arrest	Offense Description	Date Of Offense	Date Of Dismissal
13CR056789	05/16/2013	Cyberstalking	05/01/2013	10/01/2013

PETITION TO EXPUNGE

- I hereby petition for an expunction pursuant to G.S. 15A-146(a) or (a1) and certify as follows:
1. In this court of the county named above I was charged with (a) misdemeanor(s) or felony(ies) (or an infraction under G.S. 18B-302(i) prior to December 1, 1999), the file number(s) of which is/are set out above.
 2. The charge(s) listed above was/were disposed of by a dismissal.
 3. (if you are petitioning to expunge multiple dismissals under G.S. 15A-146(a1), check one of the following)
 - a. I was charged with multiple offenses, and all of the charges were dismissed. I therefore am requesting the expunction of all the charges.
 - b. I was charged with multiple offenses, and while the charges listed above were dismissed, the following charges resulted in a conviction on the day of the dismissal or had not yet reached final disposition: _____ (insert file no.(s) and offense description(s) of charges that were not dismissed). I therefore am requesting the expunction only of the dismissed charges listed above, and not all of the charges.
 4. There is a civil revocation record that resulted from the offense(s) I am seeking to expunge.

I certify that this petition has been filed in this case and that the information set forth above is a complete and accurate statement of the information on file in the office of the clerk of superior court.

No charge listed above was dismissed as the result of compliance with a deferred prosecution agreement or a conditional discharge and dismissal.

NOTE TO CLERK: If this box is checked, do not assess the \$175.00 fee.

Date 03/05/2024	Name (type or print) Erica Banks	Signature	<input type="checkbox"/> Petitioner <input checked="" type="checkbox"/> Petitioner's Attorney
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STATE OF NORTH CAROLINA

File No. 08CRS055106; 08CRS055107; 99CR000073

WAKE County

In The General Court Of Justice
District Superior Court Division

IN THE MATTER OF

CERTIFICATE OF RELIEF
PETITION AND ORDER

Name And Address Of Petitioner (type or print)
John E. Doe
117 Richardson Drive
Charlotte, NC 28208

G.S. 15A-173.1, -173.2, -173.3, -173.4, -173.5, -173.6

Name And Address Of Petitioner's Attorney
Attorney Ashley Demuth
Ashley Demuth Litigation PLLC
PO Box 761 Charlotte, NC 28208
P: 704-228-9996 E:ashleydemuth@litigation.org

Race Sex Date Of Birth
W M 07/13/1975

I. OFFENSE(S)

Table with 5 columns: File No., Date Of Conviction, General Statute And Offense Description, Class, Date Of Completion Of Sentence. Rows include offenses like Assault on a Female, Trespass or Sleep in Park Violation, and Shoplifting Concealment Goods.

See Additional Offenses Of Conviction on Page Two.

II. PETITION

I hereby petition for a Certificate of Relief under Article 6 of Chapter 15A of the General Statutes and certify as follows:

- 1. I was convicted of no more than (i) three Class H or I felonies and (ii) any misdemeanors...
2. At least twelve (12) months have passed since I served all of the active time...
3. I am engaged in, or seeking to engage in, the following lawful occupation or activity...
4. I have complied with all requirements of my sentence...
5. I am not in violation of the terms of any criminal sentence...
6. No criminal charges are currently pending against me.
7. Granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.
8. If I filed a previous petition for a Certificate of Relief that was denied, at least twelve (12) months have passed since the denial...

NOTE TO PETITIONER: You may submit additional materials that support the claims made in this petition at the hearing. Please note that any additional materials you submit may become part of the official court record, which is open to the public.

Date Signature Of Petitioner

III. SERVICE ON DISTRICT ATTORNEY

NOTE TO CLERK: When a petition for a Certificate of Relief is filed under G.S. 15A-173.2... the court shall notify the district attorney at least three weeks before the hearing on the matter.

NOTE TO DISTRICT ATTORNEY: The district attorney shall have the right to appear and be heard at any proceeding relating to the issuance... of the Certificate of Relief.

The undersigned accepts service of this petition on behalf of the Office of the District Attorney:

Date Name Of Person Accepting Service Title Of Person Accepting Service Signature Of Person Accepting Service

CAUTION TO PETITIONER: A Certificate of Relief is NOT an expunction or a pardon. It does NOT relieve you of the collateral sanctions listed in G.S. 15A-173.3, sanctions imposed by the North Carolina Constitution, sanctions imposed by federal law, or any sanctions that remain in place as identified in Order No. 3 on Side Two.

(Over)

STEP 5

FILL OUT AND COMPLETE ANY REQUIRED AFFIDAVITS

Please note that affidavits include particular language according to each expunction statute. We recommend petitioners review the North Carolina General Statutes relevant to the expunction they are filing to determine the language they should include in their affidavits. Please see below examples of affidavits of defendant and good character.



AFFIDAVITS: <https://scsj.app.box.com/folder/239811565725>



STEP 6

PREPARE TO PAY FILING FEES OR COMPLETE INDIGENCY FORM

Petitioners should be prepared to pay the filing fees for each expunction petition or certificate of relief. If the petitioner pays with a personal check, they should include their name and case numbers on the memo line. Petitioners should make sure they keep a copy of their receipt safe for their records.

If a petitioner cannot afford the filing fees, they can request the filing fees be waived by completing both indigency forms to the left at <https://www.nccourts.gov>. Petitioners should verify the financial information they provide on indigency forms to ensure accuracy because a notary public must notarize both documents. Thus, petitioners are swearing to the truthfulness of the document.



INDIGENCY FORMS: <https://scsj.app.box.com/folder/239812646013>

AOC-G-106: PETITION TO PROCEED AS AN INDIGENT

<https://www.nccourts.gov/assets/documents/forms/g106.pdf>

AOC-CR-226: COMPLETE THE AFFIDAVIT OF INDIGENCY

https://www.nccourts.gov/assets/documents/forms/cr226_0.pdf

STEP 7

FILE THE PETITION WITH THE CLERK OF COURT IN THE COUNTY WHERE THE CHARGES OR CONVICTIONS ORIGINATED

Petitioners must find the county of their charges or convictions on their criminal record. We recommend calling the county clerk of court before filing to see if the court allows filing by mail or if filing in person is required. Petitioners can find the telephone number and address of the county clerk of court at <https://www.nccourts.gov/locations>.



STEP 8

REQUEST A FILE-STAMPED COPY OF THE PETITION AND A RECEIPT IF PETITIONER PAID FILING FEES

The petitioner must mail or hand-deliver two completed copies of their expunction to the clerk. If they file in person, the petitioner should ask for a file-stamped copy of their petition. If the petitioner files their expunction by mail, they should enclose a self-addressed, pre-stamped envelope and a letter asking the clerk to send them a copy of their filed petition. Petitioners should keep the file-stamped copy safe for their records. The file-stamped copy verifies that the petitioner filed the expunction petition with the clerk of court.



STEP 9

REQUEST A JUDGE'S SIGNATURE FOR CERTAIN EXPUNCTIONS

Some expunctions require a judge's signature before filing the petition with the county clerk of court. The county clerk of court will inform the petitioner if a judge's signature is required and where the petitioner needs to go to obtain that signature.

If the petitioner's case is in District Court, they will need a District Court judge to sign their expunction petition. If their case number has "CR," their case is in District Court. If the petitioner's case is in Superior Court, they will need a Superior Court judge to sign their expunction petition. If the petitioner's case number has "CRS," their case is in Superior Court.

After a judge signs the expunction petition, the clerk of court will send it to the North Carolina State Bureau of Investigations ("SBI"). SBI will complete the criminal history record information on the expunction petition and then send it to the North Carolina Administrative Office of the Courts. The Administrative Office of the Courts will complete the record and mail it back to the clerk in the county where the expunction is pending. The clerk will then give the sealed envelope to the court, and a judge will open the sealed envelope when the application to remove the charge from the record is heard in court.



STEP 10



WAIT TO RECEIVE THE GRANTED CERTIFIED EXPUNCTION PETITION (OR DENIED PETITION) VIA MAIL FROM THE COUNTY CLERK OF COURT

If a judge grants an order of expunction, the clerk makes copies of the order, stamps “Certification by Clerk” on each copy, and sends certified copies to the petitioner, the State Bureau of Investigation, the Department of Public Safety, the Division of Motor Vehicles, the Administrative Office of the Courts, the arresting law enforcement agency and any other state or local government agency identified on the petition.

STEP 11



IF THE PETITIONER’S EXPUNCTION REQUIRES A HEARING, THE PETITIONER MUST WAIT FOR THE COUNTY CLERK OF COURT TO NOTIFY THEM OF A HEARING DATE

Hearing requirements vary per county and expunction. Speak with your County Clerk of Court to determine the specific process for the expunction you are filing. County clerks typically call or mail petitioners their hearing date.

STEP 12

IF A HEARING IS REQUIRED, PREPARE FOR PETITIONER'S HEARING

1. Petitioners should familiarize themselves with the general requirements of the expunction statute (the language on the petition should help petitioners remember the eligibility requirements if they forget).
2. Petitioners should be prepared to discuss their education, employment, housing, family, and community reputation on the hearing day.

STEP 13

THE PETITIONER SHOULD KEEP THEIR GRANTED CERTIFIED EXPUNCTION PETITION SAFE FOR THEIR RECORDS

MORE ABOUT EXPUNCTIONS

PERSONAL IDENTIFYING INFORMATION

Petitioners must include their driver's license number, social security number, and birth date on certain expunction forms. Failure to include the petitioner's personal identifying information may delay receiving a certified expunction.

DISTRICT COURT AND SUPERIOR COURT CHARGES AND CONVICTIONS

If petitioners have both District Court and Superior Court charges and convictions, they may file all charges and convictions in that county in Superior Court.

FEDERAL OR OUT-OF-STATE CHARGES AND CONVICTIONS

Federal or out-of-state convictions are treated as "other convictions" regarding North Carolina expunction laws. If an expunction law specifically requires no other convictions, then federal or out-of-state convictions will make the petitioner ineligible for the expunction.

ADDRESS CHANGES AFTER PETITIONER FILED THEIR EXPUNCTION

If the petitioner's address changes after filing their expunction petition, notify the clerk of court by phone and in writing and inform the clerk of the new address where they want to receive their certified copy of their granted expunction. The certified copy of the petitioner's expunction will be the only way petitioners can prove a charge or conviction was removed from their record. Once an expunction is granted, the clerk of court destroys the expunction.

THE PETITIONER'S CHARGES AND CONVICTIONS WERE EXPUNGED, NOW WHAT?

After the petitioner's case is expunged, the clerk of court will have no record of the case and cannot provide the petitioners with any documentation, including the expunction order. The expungement order will be destroyed with all other documents from the case.

NORTH CAROLINA'S TRANSITION TO eCOURTS

North Carolina is transitioning to a digital filing system. eCourts services are available now in 17 counties: Beaufort, Camden, Chowan, Currituck, Dare, Gates, Harnett, Hyde, Johnston, Lee, Martin, Mecklenburg, Pasquotank, Perquimans, Tyrrell, Wake and Washington. All remaining counties will launch by 2025. Attorneys and self-represented individuals can file court documents on eCourts. eCourts Portal allows the general public to perform record searches. Learn more about eCourts at <https://www.nccourts.gov/ecourts>.

CRIMINAL BACKGROUND CHECKS AFTER EXPUNCTION

Once an expunction is granted and certified, the petitioner's records are erased from court records and state agencies. Private businesses that purchase records from the Administrative Office of the Courts are also required to erase any expunged records. However, sometimes, these records are sold and not destroyed. If criminal charges or convictions are show up on your background checks, you can lawfully deny the charge or conviction.

EXPUNCTION TOOLS & RESOURCES



▶ **UNC SCHOOL OF GOVERNMENT'S COLLATERAL CONSEQUENCES ASSESSMENT TOOL**

<http://ccatt.sog.unc.edu>

▶ **2022 SUMMARY OF NORTH CAROLINA EXPUNCTIONS**

<https://www.ncjustice.org/publications/2022-summary-of-north-carolina-expunctions/>

▶ **2023 EXPUNCTIONS REPORT**

<https://webservices.ncleg.gov/ViewDocSiteFile/81229#:~:text=Pursuant%20to%20Section%2014.5%20of,state%20courts%20issued%2078%2C473%20expunctions>

▶ **2021 EXPAND EXPUNCTION ELIGIBILITY ACT**

<https://nccriminallaw.sog.unc.edu/2021-changes-to-north-carolinas-expunction-laws/>

▶ **2020 THE SECOND CHANCE ACT**

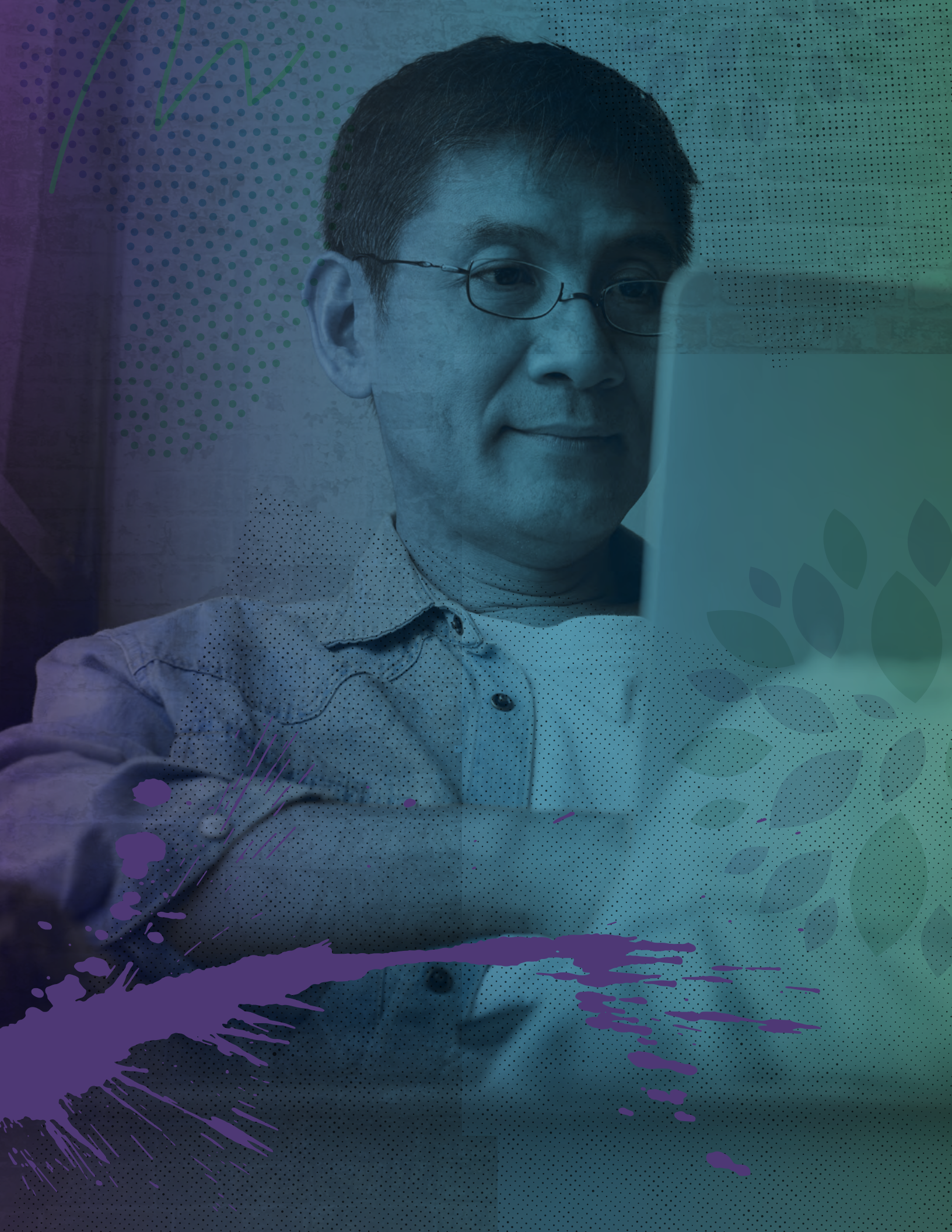
<https://www.sog.unc.edu/blogs/nc-criminal-law/second-chance-north-carolina-through-expanded-criminal-record-clearance>

▶ **NORTH CAROLINA COURTS HELP TOPICS: EXPUNCTIONS**

<https://www.nccourts.gov/help-topics/court-records/expunctions>

▶ **LEGAL AID OF NORTH CAROLINA: CRIMINAL RECORD EXPUNCTION: FAQs, SELF-HELP MATERIALS, AND MORE**

<https://legalaidnc.org/resource/criminal-record-expunction/#:~:text=How%20can%20I%20get%20help,expunction%20anywhere%20in%20the%20state>



POLICY RECOMMENDATIONS

PENDING CHARGES AND DISMISSALS SHOULD BE EXCLUDED FROM AN INDIVIDUAL'S CRIMINAL RECORD

Currently, pending charges and dismissals still appear in background checks even though a person has not been found guilty of anything. Pending charges, acquittals, and dismissals should be automatically excluded and/or removed from a person's criminal record.

INDIVIDUALS SHOULD BE ABLE TO EXPUNGE ALL MISDEMEANORS, INCLUDING MISDEMEANOR ASSAULT CHARGES

At present, the law does not allow certain Class 1 misdemeanors to be expunged: Assault, Assault and Battery, or Simple Affray against a sports official. These offenses are regularly applied to school-related matters and other contexts that do not justify them permanently remaining on someone's record.

COMMUNITY MEMBERS NEED ACCESS TO JUDGES, DISTRICT ATTORNEYS, AND CLERKS TO HAVE PAPERS SIGNED

Several structural issues create barriers to people processing their own expunctions. For example, it is particularly challenging for a non-lawyer to obtain required signatures from judges, prosecutors, and clerks. One solution to this problem is having regular office hours for people who need forms signed and reviewed. Courthouses should also assign specific expungement days. For example, some counties currently facilitate administrative days for traffic offenses, during which prosecutors and clerks are available to the public and their attorneys. The same can be done for expungements.

COMMUNITY MEMBERS ALSO NEED ACCESS TO FREE NOTARIES

Notary publics may be challenging to find because petitioners need proper state identification to get the forms notarized. Many local banks will notarize for their account holders. However, this option is also unavailable to petitioners who do not have any bank accounts. Notary publics may charge as much as \$5.00 per page, totaling over \$20.00 for an expungement. This adds to an already expensive expungement process. Free public notaries will allow individuals looking for employment access to notary services without increasing the economic burden for people trying to clear their records.



EACH COUNTY COURT SHOULD ASSIGN AT LEAST ONE EXPUNGEMENT ADVOCATE TO ASSIST IN THE EXPUNGEMENT PROCESS

These professionals could be paid by the county court or obtained by offering other incentives – like CLE credits for attorneys. The State Bureau of Investigations should mail the form back to the person trying to clear their record, and this person should be allowed to take the form back to the clerk. This will immediately let the individual know when to return the form to the clerk and gives them greater control over the expungement process.

THE 6–12-MONTH EXPUNGEMENT PROCESS SHOULD BE SHORTER

For many people, obtaining gainful employment depends on their ability to clear their records. There are multiple ways to speed up the process while maintaining the confidentiality and security of the court. As mentioned earlier, if the court administration would designate one day to process expungements, people would not have to wait months for a court date. Contacting a district attorney, clerk, and judge should also be simplified. Once the forms are sent to the State Bureau of Investigations and returned to the clerk's office, another automated system should allow the person to schedule a time to present the forms to a judge for approval.

COURTS SHOULD CREATE WAYS TO COMPLETE AND FILE EXPUNGEMENT FORMS WITH THE CLERK ONLINE

Additionally, clerks should be allowed to securely email the files to the appropriate agencies and allow those agencies to both physically mail and securely email the forms back to the individual and the clerk. Expunctions should be added to the eCourts Guide & File eCourts infrastructure as soon as possible. (see here <https://www.nccourts.gov/assets/documents/publications/eCourts-Guide-and-File-fact-sheet-022023.pdf>)

COURTS SHOULD ELIMINATE ALL COSTS ASSOCIATED WITH EXPUNGEMENTS

The \$175 fee can be waived if the indigency forms are correctly completed and most indigency requests are approved. The indigency forms also require a notary public, which can be costly and time-consuming. Courts should remove this unnecessary and costly step by making the expungement process free.

ANOTHER ECONOMIC BARRIER TO EXPUNGEMENTS IS UNPAID FINES AND FEES REQUIRED BY THE ORIGINAL SENTENCE

Courts should waive the requirement to have all fines and fees paid, primarily because having a criminal record may be keeping the individual from earning the income necessary to pay the fines and fees.



GLOSSARY

AFFIDAVITS: Written sworn statements to support the petitioner's expunction. Petitioners or character references must sign affidavits in front of a notary public. Banks, libraries, and mailbox/photocopy stores typically provide notary services.

CERTIFICATE OF SERVICE: Required for some expunctions. If a certificate of service is required, the petitioner will see a certificate of service section on the petition form. The petitioner must certify that a copy of the petition and order of expunction was served to the district attorney's office. Petitioners may serve the district attorney personally, by U.S. mail, or by leaving a copy with an associate or employee at the district attorney's office.

CONVICTION: A formal declaration by a judge or jury that an individual is guilty of a criminal offense.

CR: CR stands for Criminal District Court and indicates that the petitioner's case was in Criminal District Court (e.g., 25CR12345).

CRIMINAL RECORD: A list of infractions, misdemeanors, and felonies on an individual's record.

CRS: CRS stands for Criminal Superior Court and indicates that the petitioner's case was in Criminal Superior Court. (e.g., 25CRS1234)

DEFERRED DISPOSITION: A disposition where an individual has to complete some type of action, like community service, to have the case dismissed. Deferred Dispositions typically appear on an individual's record as DD.

DISMISSED CHARGES: Charges disposed of by dismissal, a finding of not guilty, or a finding of not responsible before December 1, 1999. Dismissed charges typically appear on an individual's record as VD (voluntary dismissal). A not guilty finding typically appears on an individual's record as NG (not guilty).

DISTRICT COURT: Courts that handle lower-level crimes and civil cases involving \$10,000 – \$25,000. Criminal cases begin in District Court but can be transferred to Superior Court based on the severity of the crime. The letters in the case number will include the court where the case was most recently heard.



EXPUNCTION OR EXPUNGEMENT: A court order requiring the destruction of a criminal record. An expunction and expungement mean the same thing. The North Carolina expunction statutes use both terms interchangeably.

EXPUNCTION ORDER: A formal petition filed by the petitioner and signed by the judge granting or denying the expungement.

FELONY: A criminal offense punishable by fines and imprisonment of one year or more.

INDIGENT OR INDIGENCY: A person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding. An indigent person is exempted from paying court fees.

INFRACTION: A non-criminal offense that does not require imprisonment but requires payment of a fine.

MISDEMEANOR: A criminal offense that the state considers less serious than a felony but more serious than

a non-criminal infraction. An individual may be sentenced to up to one year in jail and required to pay fines.

NCGS: Acronym for the North Carolina General Statutes. The North Carolina General Statutes is North Carolina's official legal code.

PETITION: A petition and order of expunction is a form petitioners complete and file with the clerk of court to start the expungement process.

PETITIONER: The individual filing the petition and order of expunction to remove their criminal charges and convictions.

RECORD SEARCH: The process for individuals to determine what charges and convictions are on their criminal record.

RESTITUTION: Court-ordered compensation from the defendant to the victim of the crime. The order may also be enforced as a civil judgment.

SUPERIOR COURT: Courts that generally hear felony cases and appeals from district court.



The Southern Coalition for Social Justice, founded in 2007, partners with communities of color and economically disadvantaged communities in the South to defend and advance their political, social, and economic rights through the combination of legal advocacy, research, organizing, and communications. Learn more at southerncoalition.org and follow our work on Twitter, Facebook, and Instagram.

MEDIA CONTACT

Media@scsj.org