

Expungement Law in NC

UNC Critical Race Lawyering Civil Rights
Clinic

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Expungement: Background



What is Expungement?

- A court proceeding that results in the destruction of a public criminal record.

Why Is Expungement Important?

- People with criminal records often face penalties and disqualifications in areas like employment, housing , and education (i.e. being prohibited from living with a childcare provider, having a health care license suspended (for certain convictions). These are **collateral consequences**. Expungement can reduce or eliminate collateral consequences.

Collateral Consequences

Black North Carolinians are more likely to:

- Be stopped while driving
- Be searched once stopped while driving
- Be arrested

Expungements, the Second Chance Act, and Certificates of Relief can help address the collateral consequences of racially disparate law enforcement.



Expungement Process

1. Submit expungement request
2. May or may not have a hearing before a judge
3. If found to meet eligibility requirements*, expungement is granted, and notice is sent to you, to certain N.C. agencies, and certain private entities.
4. The public record is destroyed.

*Eligibility: The law says that certain kinds of charges/convictions can be expunged, but others cannot. To determine whether the kind of charges/convictions you have on your record are eligible, you can consult with an attorney or refer to the resources we've listed at the end of this presentation.



Second Chance Act

More people are now eligible for expungement and the process can move faster for some people.

Highlights:

Automatic expungement:

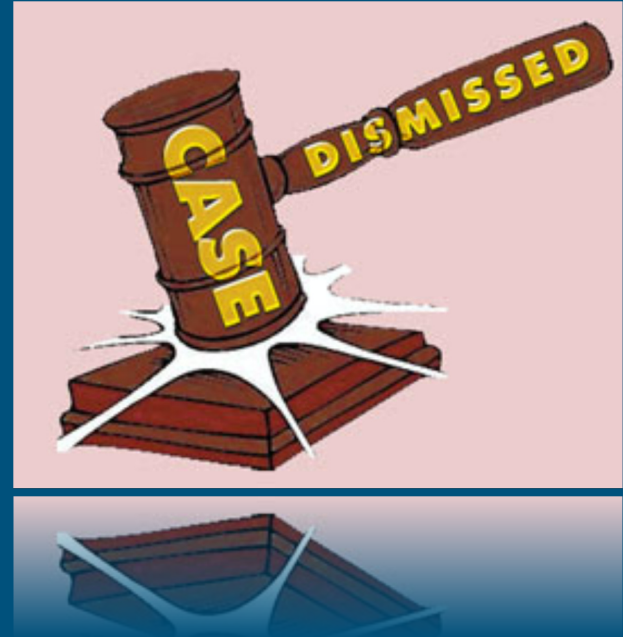
- For certain dismissals and acquittals after Dec. 2021



Second Chance Act

Dismissals:

- No waiting period
- No limit on the number of expungements
- No disqualification based on prior convictions
- Faster process



Second Chance Act

Raise the Age:

- Helps people convicted before “Raise the Age” was passed
- For most charges: mandatory expungements for 16-17 year olds convicted as adults



Second Chance Act

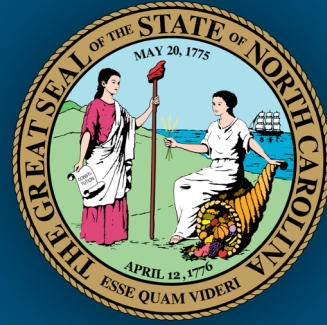
Convictions of Older Nonviolent Felonies and Nonviolent Misdemeanors

Three new categories of expungements:

- For 1 nonviolent misdemeanor conviction after 5 years
- For 1+ nonviolent misdemeanor conviction after 7 years
- For 1 nonviolent felony conviction after 10 years



Certificate of Relief



What is it?

- Not an expungement or pardon
- A court order granting relief from certain collateral consequences

Why is it important?

- Applies to **convictions** for misdemeanors and certain felonies
- Can be a path to relief when expungement isn't an option

Resources

Collateral Consequence Database:

https://niccc.csgjusticecenter.org/database/results/?jurisdiction=203&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1

Legal Aid of NC - Free Criminal Record Expunction Clinic:

<https://www.legalaidnc.org/get-help/self-help-clinics/criminal-record-expunction-clinic>

NC Justice Center Expungement Law Summary:

<https://www.ncjustice.org/publications/summary-of-north-carolina-expunctions-2018/>

Questions?



Sources

- <https://nccriminallaw.sog.unc.edu/a-second-chance-in-north-carolina-through-expanded-criminal-record-clearance/>
- <https://www.sog.unc.edu/resources/microsites/relief-criminal-conviction/certificates-relief>
- <https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2011-265.pdf>
- <https://nij.ojp.gov/topics/articles/beyond-sentence-understanding-collateral-consequences>
- <https://www.legalaiddnc.org/sites/default/files/2020-06/Mecklenburg%20County%20Pro%20Se%20Expunction%20Instructions%202018.pdf>
- <https://www.sentencingproject.org/publications/amicus-brief-in-support-of-north-carolina-felony-disenfranchisement-lawsuit/>