

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 338

Short Title: Expunction/Juvenile Records.

(Public)

Sponsors: Representative Barnes.

Referred to: Judiciary.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR EXPUNCTION OF THE JUVENILE RECORDS IN
CASES WHERE THE COURT DOES NOT ADJUDICATE THE JUVENILE TO
BE DELINQUENT OR UNDISCIPLINED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-676 reads as rewritten:

"§ 7A-676. Expunction of records of juveniles alleged or adjudicated delinquent and undisciplined.

(a) Any person who has attained the age of 16 years may file a petition in the court where he was adjudicated undisciplined for expunction of all records of that adjudication.

(b) Any person who has attained the age of 16 years may file a petition in the court where he was adjudicated delinquent for expunction of all records of that adjudication provided:

(1) The offense for which he was adjudicated would have been a crime if committed by an adult.

(2) The person has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

(c) The petition shall contain, but not be limited to, the following:

(1) An affidavit by the petitioner that he has been of good behavior since the adjudication and, in the case of a petition based on a delinquency adjudication, that he has not subsequently been adjudicated delinquent

1 or convicted as an adult of any felony or misdemeanor other than a
2 traffic violation under the laws of the United States, or the laws of this
3 State or any other state;

4 (2) Verified affidavits of two persons, who are not related to the petitioner
5 or to each other by blood or marriage, that they know the character and
6 reputation of the petitioner in the community in which he lives and that
7 his character and reputation are good;

8 (3) A statement that the petition is a motion in the cause in the case
9 wherein the petitioner was adjudicated delinquent or undisciplined.

10 The petition shall be served upon the district attorney in the district wherein
11 adjudication occurred. The district attorney shall have 10 days thereafter in which to file
12 any objection thereto and shall be duly notified as to the date of the hearing on the
13 petition.

14 (d) If the judge, after hearing, finds that the petitioner satisfies the conditions set
15 out in subsections (a) or (b), he shall order and direct the clerk of superior court and all
16 law-enforcement agencies to expunge their records of the adjudication including all
17 references to arrests, complaints, referrals, petitions, and orders.

18 (e) The clerk of superior court shall forward a certified copy of the order to the
19 sheriff, chief of police, or other law-enforcement agency.

20 (f) Records of a juvenile adjudicated delinquent or undisciplined being
21 maintained by the Chief Court Counselor, an intake counselor or a court counselor shall
22 be retained or disposed of as provided by the Juvenile Services Division.

23 (g) Records of a juvenile adjudicated delinquent or undisciplined being
24 maintained by personnel at a residential facility operated by the Division of Youth
25 Services, shall be retained or disposed of as provided by the Department of Human
26 Resources.

27 (h) Any juvenile or any person who has attained the age of 16 years may file a
28 petition in the court in which he was alleged to be delinquent or undisciplined for
29 expunction of all juvenile records of his having been alleged to be delinquent or
30 undisciplined if the court dismissed the juvenile petition without an adjudication that the
31 juvenile was delinquent or undisciplined. The petition shall be served on the chief court
32 counselor in the district where the juvenile petition was filed. The chief court counselor
33 shall have 10 days thereafter in which to file a written objection in the court. If no
34 objection is filed, the judge may grant the petition without a hearing. If an objection is
35 filed or the judge so directs, a hearing shall be scheduled and the chief court counselor
36 shall be notified as to the date of the hearing. If the judge finds at the hearing that the
37 petitioner satisfies the conditions specified herein, the judge shall order the clerk of
38 superior court and the appropriate law enforcement agencies to expunge their records of
39 the allegations of delinquent or undisciplined acts including all references to arrests,
40 complaints, referrals, juvenile petitions, and orders. The clerk of superior court shall
41 forward a certified copy of the order of expunction to the sheriff, chief of police, or
42 other appropriate law enforcement agency, and to the chief court counselor, and these
43 specified officials shall immediately destroy all records relating to the allegation that the
44 juvenile was delinquent or undisciplined."

1 Sec. 2. This act shall become effective July 1, 1989.