

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 262  
Judiciary I Committee Substitute Adopted 4/18/01

Short Title: Expunge Improper Crim. Charge/Identity Fraud.

(Public)

Sponsors:

Referred to:

February 27, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON IMPROPERLY CHARGED WITH A  
CRIMINAL OFFENSE AS A RESULT OF IDENTITY FRAUD MAY HAVE HIS  
OR HER RECORD EXPUNGED.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5 of Chapter 15A is amended by adding a new section  
to read:

**"§ 15A-147. Expunction of records when charges are dismissed or there are  
findings of not guilty as a result of identity fraud.**

(a) If any person is named in a charge for an infraction or a crime, either a  
misdemeanor or a felony, as a result of another person using the identifying information  
of the named person to commit a crime and the charge against the named person is  
dismissed, or a finding of not guilty is entered, the named person may apply by petition  
or written motion to the court where the charge was last pending on a form approved by  
the Administrative Office of the Courts supplied by the clerk of court for an order to  
expunge from all official records any entries relating to the person's apprehension,  
charge, or trial. The court, after notice to the district attorney, shall hold a hearing on the  
motion or petition and, upon finding that the person's identity was used without  
permission and the charges were dismissed or the person was found not guilty, the court  
shall order the expunction.

(b) No person as to whom such an order has been entered under this section shall  
be held thereafter under any provision of any law to be guilty of perjury, or to be guilty  
of otherwise giving a false statement or response to any inquiry made for any purpose,  
by reason of the person's failure to recite or acknowledge any expunged entries  
concerning apprehension, charge, or trial.

(c) The court may also order that the said entries shall be expunged from the  
records of the court, and direct all law enforcement agencies, the Division of Motor

1 Vehicles or any other State or local government agencies bearing record of the same to  
2 expunge their records of the entries. The clerk shall forward a certified copy of the order  
3 to the sheriff, chief of police, or other charging agency; and when applicable, to the  
4 Division of Motor Vehicles and any other State or local agency. The sheriff, chief or  
5 head of such other charging agency shall then transmit the copy of the order with the  
6 form supplied by the State Bureau of Investigation to the State Bureau of Investigation,  
7 and the State Bureau of Investigation shall forward the order to the Federal Bureau of  
8 Investigation. Upon receipt of a certified copy of the order, the agency must purge its  
9 records as required by this section. The costs of expunging these records shall not be  
10 taxed against the petitioner.

11 (d) The Division of Motor Vehicles shall expunge from its records entries made  
12 as a result of the charge or conviction ordered expunged under this section. The  
13 Division of Motor Vehicles shall also reverse any administrative actions taken against a  
14 person whose record is expunged under this section as a result of the charges or  
15 convictions expunged, including the assessment of drivers license points and drivers  
16 license suspension or revocation. Notwithstanding any other provision of this Chapter,  
17 the Division of Motor Vehicles shall provide to the person whose motor vehicle record  
18 is expunged under this section a certified corrected driver history at no cost and shall  
19 reinstate at no cost any drivers license suspended or revoked as a result of a charge or  
20 conviction expunged under this section.

21 (e) Any other applicable State or local government agency shall expunge from its  
22 records entries made as a result of the charge or conviction ordered expunged under this  
23 section. The agency shall also reverse any administrative actions taken against a person  
24 whose record is expunged under this section as a result of the charges or convictions  
25 expunged. Notwithstanding any other provision of law, the normal fee for any  
26 reinstatement of a license or privilege resulting under this section shall be waived.

27 (f) Any insurance company that charged any additional premium based on  
28 insurance points assessed against a policyholder as a result of a charge or conviction  
29 that was expunged under this section shall refund those premiums to the policyholder  
30 upon notification of the expungement."

31 **SECTION 2.** This act becomes effective October 1, 2001, and applies to  
32 charges filed before, on, or after the effective date.