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HOUSE BILL 1445
Committee Substitute Favorable 7/13/09
Committee Substitute #2 Favorable 8/6/09

Short Title: Reform Bill of 2009.   (Public)

Sponsors:

Referred to:

April 13, 2009

1   A BILL TO BE ENTITLED
2 AN ACT TO RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN
3   STRUCTURED SENTENCING IN ORDER TO EXPAND THE POINTS IN PRIOR
4   RECORD LEVEL I AND TO EVEN OUT THE REMAINING RANGES; TO MAKE
5   THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS
6   MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT; TO
7   INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS
8   TO TWELVE MONTHS, TO RECLASSIFY STATUTORY RAPE OR SEXUAL
9   OFFENSE OF A PERSON WHO IS FIFTEEN YEARS OLD BY A DEFENDANT WHO
10   IS MORE THAN FOUR YEARS BUT LESS THAN SIX YEARS OLDER AS A CLASS
11   F FELONY; TO MODIFY THE AGE REQUIREMENTS OF CERTAIN EXPUNCTIONS
12   TO BE THE AGE AT THE TIME OF THE OFFENSE RATHER THAN THE AGE AT
13   THE TIME OF CONVICTION; TO MAKE CONFORMING CHANGES TO EXISTING
14   EXPUNCTION STATUTES; AND TO REQUIRE STATE AND NATIONAL CRIMINAL
15   RECORD CHECKS WHEN EXPUNGING RECORDS.
16 The General Assembly of North Carolina enacts:
17
18 **PART I. RESTRUCTURE PRIOR CRIMINAL RECORD POINTS AND SENTENCE**
19   **LENGTHS FOR STRUCTURED SENTENCING**
20   **SECTION 1.** G.S. 15A-1340.14(c) reads as rewritten:
21   "(c)   Prior Record Levels for Felony Sentencing. – The prior record levels for felony
22 sentencing are:
23   (1)   Level I – ~~0 points.~~Not more than 1 point.
24   (2)   Level II – At least ~~1,~~2, but not more than 4 ~~points.~~5 points.
25   (3)   Level III – At least ~~5,~~6, but not more than 8 ~~points.~~9 points.
26   (4)   Level IV – At least ~~9,~~10, but not more than ~~14 points.~~13 points.
27   (5)   Level V – At least ~~15,~~14, but not more than ~~18 points.~~17 points.
28   (6)   Level VI – At least ~~19 points.~~18 points.
29 In determining the prior record level, the classification of a prior offense is the classification
30 assigned to that offense at the time the offense for which the offender is being sentenced is
31 committed."
32   **SECTION 2.** G.S. 15A-1340.17 reads as rewritten:
33 "**§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**
34   (a)   Offense Classification; Default Classifications. – The offense classification is as
35 specified in the offense for which the sentence is being imposed. If the offense is a felony for
36 which there is no classification, it is a Class I felony.

1   (b)   Fines. – Any judgment that includes a sentence of imprisonment may also include a
2 fine. If a community punishment is authorized, the judgment may consist of a fine only.
3 Additionally, when the defendant is other than an individual, the judgment may consist of a
4 fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.
5   (c)   Punishments for Each Class of Offense and Prior Record Level; Punishment Chart
6 Described. – The authorized punishment for each class of offense and prior record level is as
7 specified in the chart below. Prior record levels are indicated by the Roman numerals placed
8 horizontally on the top of the chart. Classes of offense are indicated by the letters placed
9 vertically on the left side of the chart. Each cell on the chart contains the following
10 components:

      (1)   A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

      (2)   A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

      (3)   A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

      (4)   An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
	0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment		Aggravated
					Without Parole		
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	237-297	273-342	314-394	362-453	Life Imprisonment		Aggravated
					Without Parole		
B1	189-237	218-273	251-314	289-362	333-417	383-480	PRESUMPTIVE
	141-189	163-218	187-251	216-289	249-333	287-383	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	154-193	177-222	204-255	235-294	270-339	311-390	Aggravated
B2	122-154	141-177	162-204	187-235	216-270	248-311	PRESUMPTIVE

Class							Disposition
	91-122	105-141	121-162	140-187	161-216	186-248	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	70-89	80-101	93-117	107-135	124-156	143-179	Aggravated
C	55-70	64-80	74-93	85-107	98-124	114-143	PRESUMPTIVE
	41-55	47-64	55-74	63-85	73-98	84-114	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	61-77	70-89	81-102	94-118	108-136	125-157	Aggravated
D	48-61	56-70	64-81	75-94	86-108	100-125	PRESUMPTIVE
	35-48	41-56	48-64	55-75	64-86	74-100	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	22-28	26-33	30-38	35-45	41-52	47-60	Aggravated
E	17-22	20-26	23-30	27-35	32-41	37-47	PRESUMPTIVE
	12-17	14-20	17-23	20-27	23-32	27-37	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

1

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e)   Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362

1	~~295-363~~	~~296-365~~	~~297-366~~	~~298-367~~	~~299-368~~	~~300-369~~	~~301-371~~	~~302-372~~
2	~~303-373~~	~~304-374~~	~~305-375~~	~~306-377~~	~~307-378~~	~~308-379~~	~~309-380~~	~~310-381~~
3	~~311-383~~	~~312-384~~	~~313-385~~	~~314-386~~	~~315-387~~	~~316-389~~	~~317-390~~	~~318-391~~
4	~~319-392~~	~~320-393~~	~~321-395~~	~~322-396~~	~~323-397~~	~~324-398~~	~~325-399~~	~~326-401~~
5	~~327-402~~	~~328-403~~	~~329-404~~	~~330-405~~	~~331-407~~	~~332-408~~	~~333-409~~	~~334-410~~
6	~~335-411~~	~~336-413~~	~~337-414~~	~~338-415~~	~~339-416~~			
7	12-27	13-28	14-29	15-30	16-32	17-33	18-34	19-35
8	20-36	21-38	22-39	23-40	24-41	25-42	26-44	27-45
9	28-46	29-47	30-48	31-50	32-51	33-52	34-53	35-54
10	36-56	37-57	38-58	39-59	40-60	41-62	42-63	43-64
11	44-65	45-66	46-68	47-69	48-70	49-71	50-72	51-74
12	52-75	53-76	54-77	55-78	56-80	57-81	58-82	59-83
13	60-84	61-86	62-87	63-88	64-89	65-90	66-92	67-93
14	68-94	69-95	70-96	71-98	72-99	73-100	74-101	75-102
15	76-104	77-105	78-106	79-107	80-108	81-110	82-111	83-112
16	84-113	85-114	86-116	87-117	88-118	89-119	90-120	91-122
17	92-123	93-124	94-125	95-126	96-128	97-129	98-130	99-131
18	100-132	101-134	102-135	103-136	104-137	105-138	106-140	107-141
19	108-142	109-143	110-144	111-146	112-147	113-148	114-149	115-150
20	116-152	117-153	118-154	119-155	120-156	121-158	122-159	123-160
21	124-161	125-162	126-164	127-165	128-166	129-167	130-168	131-170
22	132-171	133-172	134-173	135-174	136-176	137-177	138-178	139-179
23	140-180	141-182	142-183	143-184	144-185	145-186	146-188	147-189
24	148-190	149-191	150-192	151-194	152-195	153-196	154-197	155-198
25	156-200	157-201	158-202	159-203	160-204	161-206	162-207	163-208
26	164-209	165-210	166-212	167-213	168-214	169-215	170-216	171-218
27	172-219	173-220	174-221	175-222	176-224	177-225	178-226	179-227
28	180-228	181-230	182-231	183-232	184-233	185-234	186-236	187-237
29	188-238	189-239	190-240	191-242	192-243	193-244	194-245	195-246
30	196-248	197-249	198-250	199-251	200-252	201-254	202-255	203-256
31	204-257	205-258	206-260	207-261	208-262	209-263	210-264	211-266
32	212-267	213-268	214-269	215-270	216-272	217-273	218-274	219-275
33	220-276	221-278	222-279	223-280	224-281	225-282	226-284	227-285
34	228-286	229-287	230-288	231-290	232-291	233-292	234-293	235-294
35	236-296	237-297	238-298	239-299	240-300	241-302	242-303	243-304
36	244-305	245-306	246-308	247-309	248-310	249-311	250-312	251-314
37	252-315	253-316	254-317	255-318	256-320	257-321	258-322	259-323
38	260-324	261-326	262-327	263-328	264-329	265-330	266-332	267-333
39	268-334	269-335	270-336	271-338	272-339	273-340	274-341	275-342
40	276-344	277-345	278-346	279-347	280-348	281-350	282-351	283-352
41	284-353	285-354	286-356	287-357	288-358	289-359	290-360	291-362
42	292-363	293-364	294-365	295-366	296-368	297-369	298-370	299-371
43	300-372	301-374	302-375	303-376	304-377	305-378	306-380	307-381
44	308-382	309-383	310-384	311-386	312-387	313-388	314-389	315-390
45	316-392	317-393	318-394	319-395	320-396	321-398	322-399	323-400
46	324-401	325-402	326-404	327-405	328-406	329-407	330-408	331-410
47	332-411	333-412	334-413	335-414	336-416	337-417	338-418	339-419

48

49 (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum
50 Terms of 340 Months or More. – Unless provided otherwise in a statute establishing a
51 punishment for a specific crime, when the minimum sentence is 340 months or more, the

1   corresponding maximum term of imprisonment shall be equal to the sum of the minimum term
2   of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to
3   the next highest month, plus ~~nine~~ 12 additional months."
4
5   **PART II. INCREASE POST-RELEASE SUPERVISION PERIOD TO TWELVE**
6   **MONTHS**
7   **SECTION 3.** G.S. 15A-1368(a)(5) reads as rewritten:
8   "(5)   Maximum imposed term. – The maximum term of imprisonment imposed on
9   an   individual   prisoner   by   a   court   judgment,   as   described   in
10   G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms,
11   the maximum imposed term, for purposes of this Article, is the sum of all
12   maximum terms imposed in the court judgment or judgments, less ~~nine~~ 12
13   months for each of the second and subsequent sentences imposed for Class B
14   through Class E felonies."
15   **SECTION 4.** G.S. 15A-1368.2 reads as rewritten:
16   "**§ 15A-1368.2. Post-release supervision eligibility and procedure.**
17   (a)   A prisoner to whom this Article applies shall be released from prison for
18   post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~
19   12 months, less any earned time awarded by the Department of Correction or the custodian of a
20   local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any
21   earned time, the prisoner shall be released for post-release supervision on the date equivalent to
22   his maximum prison term less ~~nine~~ 12 months.
23   (b)   A prisoner shall not refuse post-release supervision.
24   (c)   A supervisee's period of post-release supervision shall be for a period of ~~nine~~ 12
25   months, unless the offense is an offense for which registration is required pursuant to Article
26   27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement
27   of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is
28   five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.
29   (c1)   Notwithstanding subsection (c) of this section, a person required to submit to
30   satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to participate in
31   satellite-based monitoring beyond the period of post-release supervision until the Commission
32   releases the person from that requirement pursuant to G.S. 14-208.43.
33   (d)   A supervisee's period of post-release supervision may be reduced while the
34   supervisee is under supervision by earned time awarded by the Department of Correction,
35   pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned
36   time credit toward the period of supervision for compliance with reintegrative conditions
37   described in G.S. 15A-1368.5.
38   (e)   Repealed by Session Laws 1997-237, s. 7.
39   (f)   When a supervisee completes the period of post-release supervision, the sentence or
40   sentences from which the supervisee was placed on post-release supervision are terminated."
41
42   **PART III. RECLASSIFY STATUTORY RAPE OR SEXUAL OFFENSE OF A PERSON**
43   **WHO IS 15 YEARS OLD**
44   **SECTION 5.** G.S. 14-27.7A reads as rewritten:
45   "**§ 14-27.7A. Statutory rape or sexual offense of person who is 13, 14, or 15 years old.**
46   (a)   A defendant is guilty of a Class B1 felony if the defendant engages in vaginal
47   intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant
48   is at least six years older than the person, except when the defendant is lawfully married to the
49   person.
50   (b)   A defendant is guilty of a Class C felony if the defendant engages in vaginal
51   intercourse or a sexual act with another person who is ~~13, 14, or 15~~ 13 or 14 years old and the

1   defendant is more than four but less than six years older than the person, except when the
2   defendant is lawfully married to the person.
3   (c)   A defendant is guilty of a Class F felony if the defendant engages in vaginal
4   intercourse or a sexual act with another person who is 15 years old and the defendant is more
5   than four but less than six years older than the person, except when the defendant is lawfully
6   married to the person."
7
8   **PART IV. EXPUNGE CERTAIN CRIMES**
9   **SECTION 6.** G.S. 15A-145 reads as rewritten:
10 "**§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of**
11   **conviction of misdemeanor; expunction of certain other misdemeanors.**
12   (a)   Whenever any person who ~~has (i) not yet attained the age of 18 years and~~ has not
13 previously been convicted of any felony, or misdemeanor other than a traffic violation, under
14 the laws of the United States, the laws of this State or any other state, (i) pleads guilty to or is
15 guilty of a misdemeanor other than a traffic violation, and the offense was committed before
16 the person attained the age of 18 years, or ~~(ii) not yet attained the age of 21 years and has not~~
17 ~~previously been convicted of any felony, or misdemeanor other than a traffic violation, under~~
18 ~~the laws of the United States, the laws of this State or any other state,~~(ii) pleads guilty to or is
19 guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), and the offense
20 was committed before the person attained the age of 21 years, ~~he~~ the person may file a petition
21 in the court where ~~he~~ the person was convicted for expunction of the misdemeanor from his or
22 her criminal record. The petition cannot be filed earlier than: (i) two years after the date of the
23 conviction, or (ii) the completion of any period of probation, whichever occurs later, and the
24 petition shall contain, but not be limited to, the following:
25   (1)   An affidavit by the petitioner that he or she has been of good behavior for
26   the two-year period since the date of conviction of the misdemeanor in
27   question and has not been convicted of any felony, or misdemeanor other
28   than a traffic violation, under the laws of the United States or the laws of this
29   State or any other state.
30   (2)   Verified affidavits of two persons who are not related to the petitioner or to
31   each other by blood or marriage, that they know the character and reputation
32   of the petitioner in the community in which ~~he~~ the petitioner lives and that
33   ~~his~~ the petitioner's character and reputation are good.
34   (3)   A statement that the petition is a motion in the cause in the case wherein the
35   petitioner was convicted.
36   ~~(4)~~   ~~Affidavits of the clerk of superior court, chief of police, where appropriate,~~
37   ~~and sheriff of the county in which the petitioner was convicted and, if~~
38   ~~different, the county of which the petitioner is a resident, showing that the~~
39   ~~petitioner has not been convicted of a felony or misdemeanor other than a~~
40   ~~traffic violation under the laws of this State at any time prior to the~~
41   ~~conviction for the misdemeanor in question or during the two-year period~~
42   ~~following that conviction.~~
43   (4)   An application on a form approved by the Administrative Office of the
44   Courts requesting and authorizing a State and national criminal history
45   record check by the Department of Justice using any information required by
46   the Administrative Office of the Courts to identify the individual and a
47   search of the confidential record of expungements maintained by the
48   Administrative Office of the Courts. The application shall be forwarded to
49   the Department of Justice and to the Administrative Office of the Courts,
50   which shall conduct the searches and report their findings to the court.

1   (5)   An affidavit by the petitioner that no restitution orders or civil judgments
2   representing amounts ordered for restitution entered against him or her are
3   outstanding.
4   The petition shall be served upon the district attorney of the court wherein the case was
5   tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file
6   any objection thereto and shall be duly notified as to the date of the hearing of the petition.
7   The judge to whom the petition is presented is authorized to call upon a probation officer
8   for any additional investigation or verification of the petitioner's conduct during the two-year
9   period that he deems desirable.
10   (b)   If the court, after hearing, finds that the petitioner had remained of good behavior
11   and been free of conviction of any felony or misdemeanor, other than a traffic violation, for two
12   years from the date of conviction of the misdemeanor in question, the petitioner has no
13   outstanding restitution orders or civil judgments representing amounts ordered for restitution
14   entered against ~~him,~~ him or her, and (i) petitioner was not 18 years old at the time of the
15   ~~conviction~~ offense in question, or (ii) petitioner was not 21 years old at the time of the
16   ~~conviction~~ offense of possession of alcohol pursuant to G.S. 18B-302(b)(1), it shall order that
17   such person be restored, in the contemplation of the law, to the status he or she occupied before
18   such arrest or indictment or information. No person as to whom such order has been entered
19   shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise
20   giving a false statement by reason of his failure to recite or acknowledge such arrest, or
21   indictment, information, or trial, or response to any inquiry made of him for any purpose.
22   (c)   The court shall also order that the said misdemeanor conviction, or a civil
23   revocation of a drivers license as the result of a criminal charge, be expunged from the records
24   of the court, and direct all law-enforcement agencies, including the Division of Motor Vehicles,
25   bearing record of the same to expunge their records of the conviction or a civil revocation of a
26   drivers license as the result of a criminal charge. This subsection does not apply to civil or
27   criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2.
28   The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other
29   arresting agency. The clerk shall forward a certified copy of the order to the Division of Motor
30   Vehicles for the expunction of a civil revocation provided the underlying criminal charge is
31   also expunged. The civil revocation of a drivers license shall not be expunged prior to a final
32   disposition of any pending civil or criminal charge based upon the civil revocation. The sheriff,
33   chief or head of such other arresting agency shall then transmit the copy of the order with a
34   form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the
35   State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation.
36   (c1)   Any other applicable State or local government agency shall expunge from its
37   records entries made as a result of the charge or conviction ordered expunged under this
38   section. Except when related to an employment action or decision by a law enforcement
39   agency, the agency also shall reverse any administrative actions taken against a person whose
40   record is expunged under this section as a result of the charges or convictions expunged.
41   Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
42   privilege resulting under this section shall be waived.
43   (d)   The clerk of superior court in each county ~~in North Carolina~~ shall, as soon as
44   practicable after each term of court in ~~his~~ the clerk's county, file with the Administrative Office
45   of the Courts, the names of those persons granted a discharge under the provisions of this
46   section, and the Administrative Office of the Courts shall maintain a confidential file
47   containing the names of persons granted conditional discharges. The information contained in
48   such file shall be disclosed only to judges of the General Court of Justice ~~of North Carolina~~ for
49   the purpose of ascertaining whether any person charged with an offense has been previously
50   granted a discharge.

1   (e)   A person who files a petition for expunction of a criminal record under this section
2   must pay the clerk of superior court a fee of one hundred twenty-five dollars ($125.00) at the
3   time the petition is filed. Fees collected under this subsection shall be deposited in the General
4   Fund. This subsection does not apply to petitions filed by an indigent."
5   **SECTION 7.** G.S. 15A-146 is amended by adding a new subsection to read:
6   "(b3)   Any other applicable State or local government agency shall expunge from its
7   records entries made as a result of the charge or conviction ordered expunged under this
8   section. Except when related to an employment action or decision by a law enforcement
9   agency, the agency also shall reverse any administrative actions taken against a person whose
10   record is expunged under this section as a result of the charges or convictions expunged.
11   Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
12   privilege resulting under this section shall be waived."
13   **SECTION 8.(a)** G.S. 90-96(b) reads as rewritten:
14   "(b)   Upon the dismissal of such person, and discharge of the proceedings against him
15   under subsection (a) of this section, such person, if he were not over 21 years of age at the time
16   of the offense, may apply to the court for an order to expunge from all official records (other
17   than the confidential file to be retained by the Administrative Office of the Courts under
18   subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
19   guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
20   application the following:
21   (1)   An affidavit by the applicant that he has been of good behavior during the
22   period of probation since the decision to defer further proceedings on the
23   offense in question and has not been convicted of any felony, or
24   misdemeanor, other than a traffic violation, under the laws of the United
25   States or the laws of this State or any other state;
26   (2)   Verified affidavits by two persons who are not related to the applicant or to
27   each other by blood or marriage, that they know the character and reputation
28   of the petitioner in the community in which he lives, and that his character
29   and reputation are good; and
30   ~~(3)~~   ~~Affidavits of the clerk of superior court, chief of police, where appropriate,~~
31   ~~and sheriff of the county in which the petitioner was convicted, and, if~~
32   ~~different, the county of which the petitioner is a resident, showing that the~~
33   ~~applicant has not been convicted of a felony or misdemeanor other than a~~
34   ~~traffic violation under the laws of this State at any time prior to the~~
35   ~~conviction for the offense in question or during the period of probation~~
36   ~~following the decision to defer further proceedings on the offense in~~
37   ~~question.~~
38   (3)   An application on a form approved by the Administrative Office of the
39   Courts requesting and authorizing a State and national criminal history
40   record check by the Department of Justice using any information required by
41   the Administrative Office of the Courts to identify the individual and a
42   search of the confidential record of expungements maintained by the
43   Administrative Office of the Courts. The application shall be forwarded to
44   the Department of Justice and to the Administrative Office of the Courts,
45   which shall conduct the searches and report their findings to the court.
46   The judge to whom the petition is presented is authorized to call upon a probation officer
47   for any additional investigation or verification of the petitioner's conduct during the
48   probationary period deemed desirable.
49   If the court determines, after hearing, that such person was dismissed and the proceedings
50   against him discharged and that he was not over 21 years of age at the time of the offense, it
51   shall enter such order. The effect of such order shall be to restore such person in the

1   contemplation of the law to the status he occupied before such arrest or indictment or
2   information. No person as to whom such order was entered shall be held thereafter under any
3   provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
4   his failures to recite or acknowledge such arrest, or indictment or information, or trial in
5   response to any inquiry made of him for any purpose.
6   The court shall also order that said conviction and the records relating thereto be expunged
7   from the records of the court, and direct all law-enforcement agencies bearing records of the
8   same to expunge their records of the conviction. The clerk shall forward a certified copy of the
9   order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
10 chief of police or other arresting agency, as appropriate, shall forward such order to the State
11 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
12 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
13 Investigation."
14   **SECTION 8.(b)** G.S. 90-96 is amended by adding a new subsection to read:
15   "(b1)   Any other applicable State or local government agency shall expunge from its
16 records entries made as a result of the charge or conviction ordered expunged under this
17 section. Except when related to an employment action or decision by a law enforcement
18 agency, the agency also shall reverse any administrative actions taken against a person whose
19 record is expunged under this section as a result of the charges or convictions expunged.
20 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
21 privilege resulting under this section shall be waived."
22   **SECTION 9.(a)** G.S. 90-113.14(b) reads as rewritten:
23   "(b)   Upon the dismissal of such person, and discharge of the proceedings against him
24 under subsection (a) of this section, such person, if he were not over 21 years of age at the time
25 of the offense, may apply to the court for an order to expunge from all official records (other
26 than the confidential file to be retained by the Administrative Office of the Courts under
27 subsection (c)) all recordation relating to his arrest, indictment or information, trial, finding of
28 guilty, and dismissal and discharge pursuant to this section. The applicant shall attach to the
29 application the following:
30   (1)   An affidavit by the applicant that he has been of good behavior during the
31   period of probation since the decision to defer further proceedings on the
32   misdemeanor in question and has not been convicted of any felony, or
33   misdemeanor, other than a traffic violation, under the laws of the United
34   States or the laws of this State or any other state;
35   (2)   Verified affidavits by two persons who are not related to the applicant or to
36   each other by blood or marriage, that they know the character and reputation
37   of the petitioner in the community in which he lives, and that his character
38   and reputation are good; and
39   ~~(3)~~   ~~Affidavits of the clerk of superior court, chief of police, where appropriate,~~
40   ~~and sheriff of the county in which the petitioner was convicted, and, if~~
41   ~~different, the county of which the petitioner is a resident, showing that the~~
42   ~~applicant has not been convicted of a felony or misdemeanor other than a~~
43   ~~traffic violation under the laws of this State at any time prior to the~~
44   ~~conviction for the misdemeanor in question or during the period of probation~~
45   ~~following the decision to defer further proceedings on the misdemeanor in~~
46   ~~question.~~
47   (3)   An application on a form approved by the Administrative Office of the
48   Courts requesting and authorizing a State and national criminal history
49   record check by the Department of Justice using any information required by
50   the Administrative Office of the Courts to identify the individual and a
51   search of the confidential record of expungements maintained by the

1   Administrative Office of the Courts. The application shall be forwarded to
2   the Department of Justice and to the Administrative Office of the Courts,
3   which shall conduct the searches and report their findings to the court.
4   The judge to whom the petition is presented is authorized to call upon a probation officer
5 for any additional investigation or verification of the petitioner's conduct during the
6 probationary period deemed desirable.
7   If the court determines, after hearing, that such person was dismissed and the proceedings
8 against him discharged and that he was not over 21 years of age at the time of the offense, it
9 shall enter such order. The effect of such order shall be to restore such person in the
10 contemplation of the law to the status he occupied before such arrest or indictment or
11 information. No person as to whom such order was entered shall be held thereafter under any
12 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
13 his failures to recite or acknowledge such arrest, or indictment or information, or trial in
14 response to any inquiry made of him for any purpose.
15   The court shall also order that said conviction and the records relating thereto be expunged
16 from the records of the court, and direct all law-enforcement agencies bearing records of the
17 same to expunge their records of the conviction. The clerk shall forward a certified copy of the
18 order to the sheriff, chief of police or other arresting agency, as appropriate, and the sheriff,
19 chief of police or other arresting agency, as appropriate, shall forward such order to the State
20 Bureau of Investigation with a form supplied by the State Bureau of Investigation. The State
21 Bureau of Investigation shall forward the court order in like manner to the Federal Bureau of
22 Investigation."
23   **SECTION 9.(b)** G.S. 90-113.14 is amended by adding a new subsection to read:
24   "(b1)   Any other applicable State or local government agency shall expunge from its
25 records entries made as a result of the charge or conviction ordered expunged under this
26 section. Except when related to an employment action or decision by a law enforcement
27 agency, the agency also shall reverse any administrative actions taken against a person whose
28 record is expunged under this section as a result of the charges or convictions expunged.
29 Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or
30 privilege resulting under this section shall be waived."
31   **SECTION 10.** G.S. 17C-13 reads as rewritten:
32 "**§ 17C-13. ~~Pardons.~~Pardons and expunctions.**
33   (a)   When a person presents competent evidence that he has been granted an
34 unconditional pardon for a crime in this State, any other state, or the United States, the
35 Commission may not deny, suspend, or revoke that person's certification based solely on the
36 commission of that crime or for an alleged lack of good moral character due to the commission
37 of that crime.
38   (b)   The Commission may gain access to a person's felony conviction records, including
39 those maintained by the Administrative Office of the Courts in its confidential files containing
40 the names of persons granted expunctions. Confidential records to which the Commission gains
41 access under this subsection shall remain confidential and shall not be a public record under
42 Chapter 132 of the General Statutes. The Commission may deny, suspend, or revoke a person's
43 certification based solely on that person's felony conviction, whether or not the felony
44 conviction was expunged."
45   **SECTION 11.** G.S. 17E-12 reads as rewritten:
46 "**§ 17E-12. ~~Pardons.~~Pardons and expunctions.**
47   (a)   When a person presents competent evidence that the person has been granted an
48 unconditional pardon of innocence for a crime in this State, any other state, or the United
49 States, the Commission may not deny, suspend, or revoke that person's certification based
50 solely on the commission of that crime or for alleged lack of good moral character due to the
51 commission of that crime.

1   (b)   The Commission may gain access to a person's felony conviction records, including
2 those maintained by the Administrative Office of the Courts in its confidential files containing
3 the names of persons granted expunctions. Confidential records to which the Commission gains
4 access under this subsection shall remain confidential and shall not be a public record under
5 Chapter 132 of the General Statutes. The Commission may deny, suspend, or revoke a person's
6 certification based solely on that person's felony conviction, whether or not the felony
7 conviction was expunged."
8   **SECTION 12.** The headings to the parts and sections of this act are a convenience
9 to the reader and are for reference only.
10   **SECTION 13.** This act becomes effective June 1, 2010. Sections 1 through 5 of
11 this act apply to offenses committed on or after that date. Sections 6 through 11 of this act
12 apply to applications for expunction of records made on or after that date.