



Bill Summary: North Carolina Second Chance Act (SB 562, Sens. Britt, Daniel, McKissick)

The bill: If passed, the Second Chance Act would automatically expunge (remove) from a person's criminal record charges that were dismissed, or for which a person was found not guilty. It would also allow for expungement of some juvenile convictions and certain nonviolent misdemeanor and nonviolent felony convictions. This bill is quite modest, but FAMM is supporting it.

Bill status: *This bill is not yet law.* To become law, it must go through the committee process, pass through both the North Carolina Senate and House of Representatives, and be signed by the governor.

What the bill would do: This bill would make expunging a person's criminal record easier and more streamlined, in some cases. Expungement makes it easier for people with criminal records to find jobs, provide for their families, and avoid poverty and crime. This makes the community safer and saves taxpayers money.

The following kinds of expungement are permitted in the bill:

Juvenile convictions: A person or the prosecutor can file a petition for an expungement if all of these criteria are met:

1. The crime was committed when the person was age 16 or 17;
2. Any active sentence, period of probation, and post-release supervision for that crime has been served;
3. The person has paid and fulfilled all restitution orders; and
4. The offense was a misdemeanor or Class H or I felony, but not a violation of the motor vehicle laws under Chapter 20 of the General Statutes (including any impaired driving offense) or any offense requiring sex offender registration (see Chapter 14, Article 27A of the General Statutes).

The petition must be filed in the court of the county where the person was convicted and served on the district attorney. The district attorney can object to the petition within 30 days and has to notify victims, if any, of the petition. If the person's record is expunged, the person can lawfully say, going forward, that they have not been convicted of that offense. The cost for filing a petition is \$175.

Automatic expungement of dismissed and acquitted charges: Starting July 1, 2020, expungements for the following kinds of charges will happen automatically, without requiring petition from the person or the prosecutor or a hearing by the court:

1. Dismissed charges for a misdemeanor or felony, except motor vehicle violations under Chapter 20 of the General Statutes; and



2. Acquitted charges (charges for which a person was found not guilty) for a misdemeanor or felony, excluding a motor vehicle violations under Chapter 20 of the General Statutes. If the person's record is expunged of these charges, the person can lawfully say, going forward, that they have not been arrested or convicted of that offense.

Expungement of nonviolent felony or misdemeanor convictions: A person may file a petition for expungement of certain nonviolent felony or nonviolent misdemeanor convictions. A nonviolent felony or nonviolent misdemeanor conviction does NOT include any of the following offenses:

1. A Class A through G felony or a Class A1 misdemeanor;
2. An offense that includes assault as an essential element of the offense;
3. An offense requiring sex offender registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register;
4. Any of the following sex-related or stalking offenses: G.S. 14-27.25(b), 18 14-27.30(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 19 14-277.3, 14-277.3A, 14-321.1. 20;
5. Any felony possession with intent to sell or deliver or sale or delivery of methamphetamines, heroin, or cocaine, (see Chapter 90 of the General Statutes);
6. An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c);
7. An offense under G.S. 14-401.16. 26 (7a);
8. An offense under G.S. 14-54(a), 14-54(a1), or 14-56. 27;
9. Any felony offense in which a commercial motor vehicle was used in the commission of the offense;
10. An offense involving impaired driving as defined in G.S. 20-4.01(24a); or
11. Any attempt to commit any of these offenses.

A petition for expungement can be filed if all of the following criteria are met:

1. The person does not have a prior conviction for one of the crimes listed above, or for an A1 misdemeanor;
2. For felonies, it has been at least 10 years since the date of the person's last conviction for a nonviolent felony or nonviolent misdemeanor, other than a traffic offense, *or* the person has served the whole active sentence, period of probation, and post-release supervision has been served, *whichever occurs later*;
3. For misdemeanors, it has been at least five years since the date of the person's last conviction for a nonviolent felony or nonviolent misdemeanor, other than a traffic offense, *or* the person has served the whole active sentence, period of probation, and post-release supervision has been served, *whichever occurs later*; and
4. The petition has not been filed earlier than seven years after the date of the petitioner's last conviction for any offense other than a traffic offense, *or* when any active sentence, period of probation, and post-release supervision has been served, *whichever occurs later*.

Expungement can be granted if all the following conditions are met:

1. The person has not been convicted of any other felonies or misdemeanors (excluding traffic violations) during the five- or 10-year period;

2. The person is found to be of good moral character;
3. The person has never before been granted an expunction for a nonviolent felony or nonviolent misdemeanor; and
4. The person has no outstanding warrants, restitution orders or obligations, or criminal cases pending.

The petition must be filed in the court of the county where the person was convicted and served on the district attorney. The district attorney can object to the petition within 30 days and has to notify victims, if any, of the petition.