

- **Criminal records in general.** In North Carolina, a criminal charge stays on a person's criminal record. There is no time limit for how long a charge stays on the official records. Every charge stays on the records, even if the charge is thrown out, or *dismissed*. The same is true if a judge decides that a person is *not guilty*. The charge stays on the official records.
- **Dismissed or Not Guilty records.** The courts may be able to expunge a record if a judge decided that a person was *not guilty*, or if a charge was *dismissed*.

The law about that is in Chapter 15A of the North Carolina General Statutes at section 146. The abbreviation for that law is N.C.G.S. § 15A-146.

- **Requirements.** A person who is age 18 or older may be granted an expunction under N.C.G.S. § 15A-146 ***only if*** the person has no felony conviction anywhere.
- **Expunction, or removal of records.** *Expunction* is the legal term for removing a court record. North Carolina laws allow some offense records to be expunged.
- **Petition, the expunction request form.** To ask for an expunction, a person must file a document that is called a *petition*.

- ▶ To ask for expunction of **dismissed** charge records, a person must use form **AOC-CR-287**.
- ▶ To ask for expunction of **not guilty** charge records, a person must use form **AOC-CR-288**.

A person can file both types of petition at the same time. Blank forms are included with these materials and are posted at <http://www.nccourts.gov>.

- ▶ **Strongly recommended.** If you have an open criminal case, do not file an expunction petition until the case is closed. Complete probation before you file a petition. Do not file a petition until you have paid the courts all criminal court costs, jail fees, fines, restitution, appointed lawyer fees, or a court judgment for those costs, fines, restitution and fees.

▶ **The court staff cannot help you choose or complete any form.** ◀

- **Where to file a petition.** A petition must be filed in the county where a court case was decided. By 3:00 p.m., take your documents to the Criminal Courts building. It is at 212 West Elm Street in Graham. The main telephone number for the clerk's office is 336.570.5202.

If your case was decided in superior court, go to the second floor. Let a security guard know that you want to deliver expunction petitions. Ask the guard to take you to Ms. Boger's office.

If your case was decided in district court, talk with a security guard on the first floor. Let the security guard know that you want to deliver expunction petitions. Ask the guard to take you to the district court judges' offices.

- **For your own records**, make and keep a photocopy of the documents that you take to the courthouse. *Take these items with you:* (1) A Photo ID, (2) a self-addressed stamped envelope, (3) your petition documents, and (4) a stamped mailing envelope. Address that to the NC State Bureau of Investigation // Attn: CIIS Expungement Unit // PO Box 29500 // Raleigh // NC //27626.

In two or three weeks, a judge will review each petition and decide whether to sign it. If the judge approves, that will start the expunction process. The judge will direct two state agencies to review their records.

- **At the judge's office, make a note** for the Judicial Secretary. Ask the Secretary to please mail a copy of the approved petition to you, and to the NC State Bureau of Investigation.

- **More than one petition.** If you are submitting one petition to expunge dismissed charge records and another to expunge not guilty charge records, attach the two petitions together.

- **Fees.** A copy of the filing fee statute, or law is included with these materials. There is no court filing fee to petition to expunge a *Not Guilty* offense record.

There is no court filing fee to petition to expunge a *dismissed* charge record unless a charge was dismissed because you had a deferred prosecution agreement or a conditional discharge and dismissal. In either of those situations, there is a **\$175 filing fee**. The fee must be paid with cash or a Money Order or certified bank check payable to the Alamance County Clerk of Superior Court.

● **Indigent, or low income status request.** Any person may ask to file an expunction case as an Indigent, or low income person. An Indigent person does not have to pay the filing fee. The form for that request is **AOC-G-106**. If you ask for low income status, you must submit three request forms with your expunction petition(s). A blank form AOC-G-106 is included with these materials.

**Before you take the forms to the courthouse, a Notary Public must witness your signature on form AOC-G-106**

- **Approval.** The judge will decide whether to grant the request and might waive the fee *if* a person *submits proof* that she or he gets SSI benefits, or Work First Family Assistance, or SNAP (Food and Nutrition Services) benefits. Attach a copy of all of your benefits proof to the form.

- If you do not get any of those benefits, you may still submit form AOC-G-106. You must also submit another form. That is the *Criminal Affidavit of Indigency*, form **AOC-CR-226**. The form is included with these materials. **A Notary Public must also witness your signature on the Affidavit before you file it.** The judge will decide about your request on an individual basis.

- **File documents by mail.** If you cannot take your petition(s) to the courthouse, you may mail the originals and three sets of documents. The court's address is below. Enclose a letter, a self-addressed, stamped envelope and a stamped mailing envelope addressed to the NC State Bureau of Investigation. In your letter, ask the clerk to please mail a set of approved documents to you and to the State Bureau of Investigation.

If you have questions about mailing, please call the clerk.

Alamance County Clerk of Superior Court  
ATTN: Resident Superior Court Judge **OR** ATTN: Chief District Court Judge  
212 West Elm Street  
Graham NC 27253

**If you file your documents by mail and you must pay a fee**, you must enclose a Money Order or certified check. Make that payable to the Alamance County Clerk of Superior Court.

- **Expunction petition processing**. The judge will review each petition decide whether to sign it. If a judge signs a petition, will start the expunction process.

The judge directs the State Bureau of Investigation (SBI) to perform a state and national criminal record check. The judge also directs the Administrative Office of the Courts (AOC) to review their records.

Each SBI and AOC review takes several months. The clerk of court does not control how long that process takes.

The results of the reviews will be mailed to the county clerk of court. The clerk will give the results to a judge.

- **It is your responsibility to check** about the status of your petition(s). If you have not gotten an expunction order or a notice about a court hearing four months after you filed your documents, you should call the clerk.

**After you file the petition(s)  
if your telephone number, mailing address or e-mail address changes,  
you must give the clerk of court your new information in writing.**

*Please see the form letter that is included with these materials.*

- **Court hearing and decision**. A court hearing may be required. The clerk of court will inform you if you must report to court for a hearing. At a hearing, a judge will ask you questions, and then decide whether to grant or deny your expunction petition(s).

The clerk of court will mail the judge's order(s) to you. You may expect the whole process to take about six months, from the time you file a petition until you get the order.

- **Legal result of expunction**. Once an order is granted, an individual can accurately and truthfully say that she or he was not convicted, arrested or charged with the expunged offense.

**Please be sure to keep the expunction order(s).  
You will not be able to get another copy from the courthouse.**

• **Check the court records if your petition(s) is granted.** If the judge grants your petition(s), the clerk will send the expunction order(s) to you, the SBI, the AOC, other state agencies, and any local law enforcement agency that you list on your petition as an “Arresting Agency.”

The expunged record is removed by local law enforcement agencies only if you write those addresses on your petition.

**Within the following six months**, the record should be removed from the court records, all the state law enforcement databases, and the SBI database.

### **CAUTION**

**Use of these materials is at your own risk. There is no way to guarantee the success of your petition(s). In no event will Legal Aid of North Carolina or anyone contributing to the production of these materials and instructions be held responsible for any damages resulting from the use of the materials or instructions provided here.**

**NOTICE: The expunction of your case information from the court records and records of other state and local government agencies does not guarantee that the information will be removed from all other sources.**

Private companies routinely get copies of criminal records from state and local criminal justice agencies. Only some private businesses have a duty to remove your case information upon receiving notice of the expunction order, and there may be a delay between entry of the order of expunction and deletion from those business records.

The duty to expunge does not apply to all private businesses.

If a private entity distributes information about your expunged case, contact the private entity to learn which government agency was the source of the information.

Then contact that government agency to learn whether the expunction order was received there.

If the private entity claims that the AOC was the source of the information, you may contact the **AOC's Remote Public Access office** at [rpa@nccourts.org](mailto:rpa@nccourts.org) or at **919.890.2220** to investigate the entity's claim.

## Filing fee statute

### **§ 15A-146. Expunction of records when charges are dismissed or there are findings of not guilty.**

(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement or the terms of a conditional discharge and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee to the North Carolina Department of Public Safety for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent. (1979, c. 61; 1985, c. 636, ss. 1-7; 1991, c. 326, s. 1; 1997-138, s. 1; 1999-406, s. 9; 2001-108, s. 2; 2001-282, s. 1; 2002-126, s. 29A.5(c); 2005-452, s. 1; 2007-509, s. 2; 2009-510, s. 5(a), (b); 2009-577, ss. 3.1, 8, 9; 2011-145, s. 19.1(h); 2012-191, s. 4; 2013-360, ss. 17.6(e), 18B.16(f); 2014-100, s. 17.1(o); 2014-119, s. 2(d); 2017-186, s. 2(tt); 2017-195, s. 1.)

# Sample Letter to the Clerk of Court Updated Contact Information

*DATE*

Sample County Clerk of Superior Court  
address  
address

RE: Updated contact information, *pro se* expunction petitioner

Dear Clerk of Superior Court:

Please accept this letter as notice of my new contact information. I have filed one or more expunction petitions.

I have enclosed a photocopy of my petition(s).

My new mailing address is:

\_\_\_\_\_ Apt. Number \_\_\_\_\_

\_\_\_\_\_ Zip Code \_\_\_\_\_

My new telephone number is: (\_\_\_\_) \_\_\_\_\_

Thank you.

Respectfully,

\_\_\_\_\_  
(your signature)

Printed name \_\_\_\_\_

**KEEP A COPY OF THE LETTER YOU SEND or DELIVER TO THE CLERK OF COURT**