

## 17.2 Expunction of Juvenile Court Records: Adjudication of Delinquency

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## 17.2 Expunction of Juvenile Court Records: Adjudication of Delinquency

### A. Criteria

**Age.** A person must be at least 18 years of age to file a petition for expunction of juvenile court records relating to an adjudication of delinquency. G.S. 7B-3200(a).

**Adjudications that may be expunged.** An adjudication for an offense other than one that would have been a Class A, B1, B2, C, D, or E felony if committed by an adult is eligible for expunction. G.S. 7B-3200(b)(1). The excluded offenses cannot be expunged.

**When to file.** A petition for expunction of an eligible adjudication can be filed if at least 18 months have elapsed since the person was released from juvenile court jurisdiction and the person has not subsequently been adjudicated delinquent or convicted of any felony or misdemeanor other than a “traffic violation,” a term that is not defined. G.S. 7B-3200(b)(2); *see also* [Frequently Asked Questions about Expunctions and Other Relief](#) (discussing meaning of traffic violations in adult context) in *Relief from a Criminal Conviction: A Digital Guide to Expunctions, Certificates of Relief, and Other Procedures in North Carolina* (UNC School of Government 2016).

### B. Petition

The petition for expunction must be filed in the court where the person was adjudicated delinquent. G.S. 7B-3200(b). Pursuant to G.S. 7B-3200(c), a petition must contain the following:

- an affidavit by the petitioner stating that the petitioner has been of good behavior since the adjudication and has not subsequently been adjudicated delinquent or convicted of any felony or misdemeanor other than a traffic violation,
- verified affidavits of two people not related to the petitioner or to each other by blood or marriage stating that they know the character and reputation of the petitioner in the community in which the petitioner lives and that the petitioner’s character and reputation are good, and
- a statement that the petition is a motion in the cause in the case in which the petitioner was adjudicated delinquent.

See [Form AOC-J-903M](#) (Petition and Motion in the Cause for Expunction of Juvenile Record) (Mar. 2002), and [Form AOC-J-904M](#) (Affidavit of Good Character (Expunction of Juvenile Record)) (Mar. 2002). The Administrative Office of the Courts (AOC) forms do not specifically include requests and orders for the Division of Adult Correction and Juvenile Justice to destroy its records, including those maintained on the North Carolina Juvenile Online Information Network (NC-JOIN); for the juvenile court counselors to destroy their records; or for the AOC to destroy its records, including those maintained on J Wise, the automated information management system for juvenile courts. These requests must be added to the forms, or counsel must draft an appropriate petition and order. A sample “Petition and Order to Expunge Juvenile Record” is available on the [Office of the Juvenile Defender website](#).

### **C. Service of Petition and Notice**

The petitioner must serve the petition on the prosecutor in the district where the adjudication occurred. Notice of the date of the hearing must be given to the prosecutor. G.S. 7B-3200(c). The statute does not state who must give notice of the hearing, but it appears that the clerk sends notice of the hearing date to the petitioner and to the prosecutor.

### **D. Objection by Prosecutor**

Within 10 days of receipt of the petition, the prosecutor may file an objection. G.S. 7B-3200(c). The prosecutor is presumably allowed to present evidence and argue against granting the petition at the hearing although this is not specified by statute.

### **E. Hearing**

A hearing must be held at which the court will consider whether the petitioner has met the criteria for expunction, listed *supra* § 17.2A, Criteria. The statute provides no procedures for conducting the hearing.

### **F. Order**

If the court finds that the petitioner has met the criteria for expunction, it must enter an order directing the clerk of superior court and all law enforcement agencies to expunge records concerning the adjudication. The clerk must forward a certified copy of the order to the sheriff, chief of police, or other law enforcement agency. G.S. 7B-3200(e). Records that must be expunged include all records containing references to arrests, complaints, referrals, petitions, and orders. G.S. 7B-3200(d); see [Form AOC-J-905](#) (Order for Expunction of Juvenile Record) (Oct. 2016). Because the AOC form order does not identify all the necessary agencies that have juvenile records, these should be added or a separate order drafted. See *supra* § 17.2B, Petition.