

### **17.3 Expunction of Juvenile Court Records: Dismissed Petition**

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### **17.3 Expunction of Juvenile Court Records: Dismissed Petition**

#### **A. Criteria**

A person who is at least 16 years of age may file a petition for expunction of juvenile court records relating to a petition alleging delinquency that was dismissed without an adjudication of delinquency. G.S. 7B-3200(h). It appears that records of a dismissed petition may be expunged even if the person has other adjudications of delinquency or criminal convictions.

#### **B. Petition**

The petition must be filed in the court in which the person was alleged to be delinquent. G.S. 7B-3200(h). There are no provisions in the statute specifying what the petition must allege. It appears that the petition need allege only that a petition alleging delinquency was filed, that it was dismissed, and that the petitioner is at least 16 years of age. *See [Form AOC-J-909M](#)* (Petition/Order/Notice Expunction of Juvenile Records upon Dismissal) (Mar. 2002).

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

A petition for expunction of juvenile court records regarding a dismissed petition must be served on the chief juvenile court counselor in the district where the petition was filed. If the chief court counselor files an objection to the petition, a hearing must be scheduled and notice given to the chief court counselor. G.S. 7B-3200(h).

#### **D. Objection by Chief Court Counselor**

The chief court counselor has 10 days from receipt of service of the petition to file an objection. If an objection is filed, the court must hold a hearing on the petition. G.S. 7B-3200(h). It appears that the only ground for filing an objection is if the petition was not, in fact, dismissed.

### **E. Hearing**

A hearing must be held if the chief court counselor files an objection or if the court directs that a hearing be held. The court must consider whether the criteria discussed *supra* in § 17.2A, Criteria, have been met. G.S. 7B-3200(h). The statute provides no procedures for conducting the hearing.

If no objection to the petition is filed, the court has discretion to grant the petition without holding a hearing. *Id.*

### **F. Order**

If the court finds that the petitioner has met the criteria for expunction, it must enter an order directing the clerk and all law enforcement agencies to expunge their records concerning the dismissed petition. Records that must be expunged include all records containing references to arrests, complaints, referrals, juvenile petitions, and orders. G.S. 7B-3200(h); *see* [Form AOC-J-905](#) (Order for Expunction of Juvenile Record) (Oct. 2016); *see also supra* § 17.2B, Petition (discussing other records that counsel should request be expunged).

The clerk must forward a certified copy of the order to the sheriff, chief of police, or other appropriate law enforcement agency and to the chief court counselor. These officials must immediately destroy all records relating to the allegations that the juvenile was delinquent. G.S. 7B-3200(h).