



2018 EXPUNCTIONS REPORT

G.S. 15A-160

PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
SEPTEMBER 1, 2018



About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

Introduction

The Department of Public Safety (DPS), in conjunction with the Department of Justice (DOJ) and the North Carolina Administrative Office of the Courts (NCAOC) are required to report annually to the General Assembly on the number and types of expunctions granted and the use of funds appropriated to support the processing of expunctions. Specifically, N.C.G.S. 15A-160, provides as follows:

§ 15A-160. Reporting requirement.

The Department of Public Safety, in conjunction with the Department of Justice and the Administrative Office of the Courts, shall report jointly to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety Oversight by September 1 of each year regarding expunctions. The report shall include all of the following information:

- (1) The number and types of expunctions granted during the fiscal year in which the report is made.
- (2) The number and type of expunctions granted each fiscal year for the five fiscal years preceding the date of the report.
- (3) A full accounting of how the agencies have spent the receipts generated by the expunction fees received during the fiscal year in which the report is made and for the five preceding fiscal years."

This report represents a joint effort by DPS and NCAOC to meet the statutory requirement.

Analysis

Overview of the Expunction Process

A person seeking an expunction must file a petition for expunction under the relevant statute. As custodian of the record, the clerk receives petitions for filing, collects any necessary fees, schedules the petitions for hearing when required, and then files and carries out any order entered by the court.

Certain expunction provisions require both a criminal record check by DPS, which is performed by the State Bureau of Investigation ("SBI"), and an NCAOC search of the confidential index of prior expunctions prior to a hearing on the petition. The petitioner requests and authorizes the search as part of the petition for expunction filed in those cases. After a judge has signed the request, the clerk's office forwards the petition to DPS for the criminal record check and to NCAOC for a search of the confidential index of prior expunctions.

Almost all expunctions require a court hearing. For expunction petitions sent to DPS and NCAOC for record checks, the clerk does not schedule the hearing until the petition has been returned by NCAOC and the petitioner requests a hearing. For expunctions that do not require record checks, the clerk schedules the hearing upon filing of the petition and collection of any required fees.

When a petition for expunction is granted, the clerk must expunge all record of the case from the court's records, including both paper and electronic records. This requires NCAOC to delete



all images stored electronically and on microfilm, both in the court databases and at State Archives. The clerk also must notify State and local agencies of the expunction by certified copy of the order, and provide a certified copy of the order to the petitioner and the NCAOC.

Number and Type of Expunctions

For FY 2017-18, North Carolina state courts issued 12,751 expunction orders. Table 1 below details the number of expunctions for FY 2017-18 and the preceding five fiscal years, categorized by the statute under which the expunction was granted.

Table 1: Expunction Orders for Fiscal Years 2012-13 through 2017-18

STATUTE	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	TOTAL
7B-3200	0	2	2	0	0	0	4
15A-145	17	8	7	2	2	4	40
15A-145(a)	146	175	128	145	209	177	980
15A-145(d1)	16	7	0	0	0	0	23
15A-145.1	1	1	0	0	0	0	2
15A-145.2	0	8	4	4	3	3	22
15A-145.2(a)	34	47	33	32	57	36	239
15A-145.2(b)	14	22	11	27	77	59	210
15A-145.2(c)	30	42	22	37	54	52	237
15A-145.3	0	1	2	1	2	1	7
15A-145.3(a)	0	3	1	1	0	0	5
15A-145.3(b)	7	4	5	12	45	33	106
15A-145.3(c)	0	1	2	2	1	4	10
15A-145.4	15	21	13	16	17	27	109
15A-145.5	6	311	292	411	500	629	2,149
15A-145.6	0	0	1	1	3	0	5
15A-146	10,006	12,886	7,407	9,929	10,457	9,755	60,440
15A-146(a/a1)	0	0	0	0	0	726	726
15A-146(a2)	0	0	0	0	0	35	35
15A-147	66	60	42	412	1,010	833	2,423
15A-147(a)	0	0	0	0	0	8	8
15A-147(a1)	0	0	0	0	0	369	369
15A-149	0	2	0	0	1	0	3
90-96(b)	1	1	0	0	0	0	2
90-96(d)	0	1	0	0	0	0	1
90-96(e)	0	0	0	0	0	0	0
90-113.14(e)	0	0	0	0	0	0	0
TOTAL	10,359	13,603	7,972	11,032	12,438	12,751	68,155

Receipts Generated from Expunction Fees

Section 18B.16 of S.L 2013-360 amended certain expunction statutes (G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4, and 15A-146) to impose a \$175.00 fee on persons who file a



petition for expunction of a criminal record on or after September 1, 2013.¹ The \$175.00 fee is deposited in the General Fund, with \$122.50 of the fee remitted to DPS for the costs of criminal record checks performed in connection with processing petitions for expunctions and \$52.50 retained by NCAOC to pay the costs of processing petitions for expunctions. The session law authorized the use of up to \$1.4 million to create and support up to five new SBI staff positions to help process petitions for expunction and conduct criminal record checks required for those petitions.

From July 1, 2017 through June 30, 2018, NCAOC collected and disbursed a total of \$643,349.39 from expunction fees applied toward the General Fund. Of that amount, NCAOC retained \$192,186.89 and remitted \$451,162.50 to DPS pursuant to G.S. 7A-321(d).²

Of the funds remitted to DPS during FY 2017-18, the SBI spent \$331,694 on expunction payroll and operational expenses and reverted \$118,072 to the General Fund. The remitted funds support five receipt-supported positions in the SBI's expunction section, which have helped reduce the SBI's expunction turnaround time from approximately eight months to a month and half.

Of the funds remitted to NCAOC during FY 2017-2018, NCAOC spent \$178,916.70 on expunction payroll and administrative support expenses and reverted \$10.00 to the General Fund. Pursuant to G.S. 143C-1-2(b), the remaining balance of \$57,771 was approved as a legislative carryforward for FY 2018-2019.

Summary

NCAOC, the SBI and DPS will continue to take appropriate steps to expedite the processing of expunctions. Both NCAOC and DPS anticipate maximizing the use of future funds to expedite the processing of expunctions.

¹ G.S. 15A-146 imposes the fee only for offenses dismissed pursuant to compliance with a deferred prosecution agreement or the terms of a conditional discharge.

² NCAOC had an approved carryforward of \$44,196 from FY 2016-17.



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