

## It's Only Juvenile Court, Is an Expunction Necessary?

In discussing my experience as a juvenile defender with non-lawyers, I have learned that many people believe that juvenile proceedings are completely confidential and under no circumstances can anyone learn about the case or access the records. They also think juvenile matters are not very significant and have no real consequences beyond the juvenile court process.

Generally, North Carolina juvenile proceedings are confidential and may not be disclosed to anyone except the juvenile and his or her attorney and parents. Additionally, the court can seal juvenile records and require a court order to review or copy the records. However, in some situations, the records of juvenile proceedings can be reviewed without a court order.

It is also true that a juvenile adjudication of delinquency is not a criminal conviction. See G.S. 7B-2412. Even the terminology used in juvenile cases distinguishes the proceedings from criminal cases. Yet, in some situations a juvenile adjudication can have consequences similar to an adult criminal conviction. For example, juvenile adjudications can potentially affect higher education and employment opportunities as well as any future adult criminal cases.

If the juvenile record can be expunged, then the records should no longer exist for anyone to review and the proceedings should have a limited impact on future opportunities for the juvenile. This legislative session the General Assembly recognized the importance of expunctions of juvenile records by requiring the court to notify juveniles of their expunction rights. For delinquent acts committed on or after December 1, 2015, G.S. 7B-2512 requires the court at disposition to inform the juvenile about the possibility of expunging the juvenile records. [S.L. 2015-58](#) (H 879). Because the court's advisement may be general in nature, it remains important for juvenile defenders to explain the expunction criteria to their clients, which may help them make decisions about their case. Juvenile defenders have the opportunity to educate and advise not only their clients but also parents concerned about their children's future.

### Potential Consequences and Risks

- If a person is placed on adult probation for an offense committed before the age of 25, a probation officer can examine, without a court order, any juvenile records of an adjudication of delinquency for felony offenses. See G.S. 7B-3000(e1).
- Criminal offenses can prevent a person from enlisting in the armed forces. Recruiters inquire specifically about juvenile adjudications even though they are not convictions. See [Army Regulation 601-210: Active and Reserve Components Enlistment Program](#), sec. 2-11 at p. 13 (Mar. 2013). (The regulation also allows inquiry into matters that have been expunged or sealed, whether adult or juvenile.)
- Employers, licensing agencies, and higher education entities are changing the language on

their applications. Instead of focusing on convictions, some applications contain questions about prior arrests or admissions to criminal activity. Questions like these could yield an affirmative response. In contrast, an expunction ordinarily allows a person to answer no to such questions.

- A juvenile arrest or delinquency adjudication can affect public housing and other benefits. The housing authority has the right to evict the tenants due to the actions of a family household member or a guest of the tenants. See G.S. 157-29(e).

## **Criteria for Juvenile Expunctions**

General Statutes 7B-3200 through G.S. 7B-3202 contain the criteria for the expunction of juvenile delinquency matters.

Individuals are allowed to petition for expunctions of delinquency adjudications for any offenses that are not Class A through E felonies if committed by an adult. The petitioner must be at least 18 years old at the time of the petition and cannot file it until 18 months after being released from the jurisdiction of juvenile court. In addition, the petitioner cannot have any subsequent delinquent adjudications or adult convictions other than a traffic violation in North Carolina and any other state or federal court. The petitioner must show by affidavit his good behavior, character, and reputation in the community. See G.S. 7B-3200.

Additionally, a person can petition the court to expunge a dismissal of a petition alleging delinquency or undisciplined status. To expunge the dismissal of a delinquency petition, the only requirement is that the petitioner be 16 years of age at the time of the petition. If the record is a dismissal of a petition alleging undisciplined status, then the petitioner must be 18 years of age at the time the petition for expunction is filed.

## **Expunction Granted, Now What?**

When a juvenile record is expunged, all documentation of a juvenile's arrest, adjudication, and disposition is destroyed. The court's order of expunction directs the clerk and law enforcement agencies to expunge all records, including all police reports, probation reports, referrals, and court records. Fingerprints and photographs are not eligible for expunction. G.S. 7B-2102(d). If the juvenile was 10 years of age or older at the time of the offense and is adjudicated delinquent for a felony, any fingerprints obtained are transferred to the State Bureau of Investigation (SBI) and placed in the Automated Fingerprint Identification System (AFIS). Photographs are also maintained by the SBI and used for investigation and comparison purposes. G.S. 7B-2102(c). If the juvenile is not adjudicated delinquent, however, the custodian of records must destroy the fingerprints and photographs as provided in G.S. 7B-2102(e).

The clerk of court is required to report the delinquency expunction to the Administrative Office of

the Courts (AOC). See G.S. 7B-3200(i). The AOC keeps confidential records of all expunctions, including delinquency matters, which it provides to judges considering expunction petitions. Therefore, it is possible that judges may consider the expunction of a juvenile adjudication or dismissal when considering a petition to expunge an adult criminal conviction or dismissal. Ordinarily, an expunction of a delinquency proceeding (as well as an adjudication of delinquency) should not prevent an expunction of a later adult criminal proceeding. Most adult expunction statutes disallow a person from getting an expunction if the person has a prior expunction of an adult matter, not an expunction of a prior juvenile matter. However, this possibility should be considered and discussed with the juvenile in deciding the best way to proceed. This issue is discussed further [here](#) in the School of Government's recently updated guide to relief from a criminal conviction.

### Additional Resources

On the North Carolina Office of the Juvenile Defender website, defenders can access a free [Expunction Toolkit](#) (scroll to the bottom of the page) designed to help defenders educate their clients about the expunction of juvenile proceedings and the collateral consequences of adjudications. The toolkit includes a reminder card, which has a section for the defender to fill in specific information about the case. Once the juvenile matter is resolved, the defender can give the reminder card to his or her client to help the juvenile initiate the expunction process later.

For additional discussion of the expunction of juvenile records, see [North Carolina Juvenile Defender Manual](#) Ch. 17, Expunction of Juvenile Records (UNC School of Government, 2008). For a more extensive discussion of expunctions in North Carolina, consult [Relief from a Criminal Conviction: A Digital Guide to Expunctions, Certificates of Relief, and Other Procedures](#) (UNC School of Government, 2015).