

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS85031-LH-6A (09/28)

Short Title: Prohibit Request to Disclose Expunction.

(Public)

Sponsors: Senators Kinnaird and McKissick (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE IT UNLAWFUL FOR AN EMPLOYER, EDUCATIONAL
3 INSTITUTION, OR STATE OR LOCAL GOVERNMENT AGENCY TO REQUEST
4 INFORMATION FROM AN APPLICANT FOR EMPLOYMENT OR ADMISSION
5 REGARDING AN ARREST OR CRIMINAL CHARGE AGAINST THE APPLICANT
6 THAT HAS BEEN EXPUNGED.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 5 of Chapter 15A of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 15A-153. Prohibited practices by employers, educational institutions, agencies of State
11 and local governments.**

12 (a) Purpose. – The purpose of this section is to clear the public record of any entry of
13 any arrest or criminal charge that has been expunged so that (i) the person who is entitled to
14 and obtains the expunction may omit reference to the charges to potential employers and others
15 and (ii) a records check for prior arrests and convictions will not disclose the expunged entries.

16 (b) Prohibit Employer or Educational Institution From Requiring Disclosure of
17 Expunged Arrest or Criminal Charge. – An employer or educational institution shall not, in any
18 application, interview, or otherwise, require an applicant for employment or admission to
19 disclose information concerning any arrest or criminal charge against the applicant that has
20 been expunged. An applicant need not, in answer to any question concerning any arrest or
21 criminal charge that has not resulted in a conviction, include a reference to or information
22 concerning arrests or charges that have been expunged.

23 (c) Prohibit State or Local Government Agencies, Officials, and Employees From
24 Requiring Disclosure of Expunged Arrest or Criminal Charge. – Agencies, officials, and
25 employees of the State and local governments shall not, in any application, interview, or
26 otherwise, require an applicant for a license, permit, registration, or governmental service to
27 disclose information concerning any arrest or criminal charge against the applicant that has
28 been expunged. An applicant need not, in answer to any question concerning any arrest or
29 criminal charge that has not resulted in a conviction, include a reference to or information
30 concerning charges that have been expunged. Such an application shall not be denied solely
31 because of the applicant's refusal or failure to disclose information concerning any arrest or
32 criminal charge against the applicant that has been expunged.

33 (d) Punishment. – A person who willfully violates this section is guilty of a Class 1
34 misdemeanor for each violation."



1 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
2 offenses committed on or after that date.