

NORTH CAROLINA

Dispositions in juvenile cases are termed adjudications, not convictions. N.C. GEN. STAT. § 7B-807.

Juvenile Record Contents

Juvenile records include all documents or information referring to arrests, complaints, referrals, juvenile petitions, and orders. N.C. GEN. STAT. § 7B-3200(h). This includes papers filed in juvenile proceedings, such as summons, petition, custody orders, motions, and recordings of hearings. See N.C. GEN. STAT. § 7B-3000. Each county courthouse also maintains these records, and a new juvenile court record database called JWisE is being implemented. See NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS, JWisE Orientation Notes (January 2011), available at http://www.nccourts.org/Citizens/CPrograms/Family/Documents/JWisE_Orientationnotes.pdf. If a child is older than 10 years old and is charged in juvenile court with a felony offense, his or her fingerprints and photographs are taken and maintained separately from the juvenile record. N.C. GEN. STAT. § 7B-2102(c).

Confidentiality of Law Enforcement Records

There is no distinction between law enforcement and court records.

Confidentiality of Court Records

Juvenile records are generally confidential. N.C. GEN. STAT. § 7B-3000.

Exceptions:

- Probation officers; prosecutor may share information with other law enforcement officials. N.C. GEN. STAT. § 7B-3100.
- Court counselors and prosecutors. N.C. GEN. STAT. § 7B-3100.
- The child's school principal (who must be notified if a child is alleged to have committed or has been adjudicated for an act that would be a felony). N.C. GEN. STAT. § 7B-3101.
- Agencies investigating child abuse, neglect, dependency, or providing protective services. N.C. GEN. STAT. § 7B-3100.
- Child's attorney. N.C. GEN. STAT. § 7B-3000.
- Child's parent or guardian. N.C. GEN. STAT. § 7B-3000.
- Child. N.C. GEN. STAT. § 7B-3000.
- By court order. N.C. GEN. STAT. § 7B-3000.

Exceptions to Confidentiality

Emergency Circumstances: The first name, last initial, and photograph of a juvenile who has escaped from detention may be released if he or she is alleged to have committed a felony and the juvenile presents a threat to him/herself or to others. N.C. GEN. STAT. § 7B-3102.

Availability of Records Online or in Commercial Background Reports

Juvenile records are not available for public access online.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Sealing: The court may seal any portion of a child's record. N.C. GEN. STAT. § 7B-3000(c).

Expungement: Once a child reaches the age of 18, he or she may file a petition for expungement in the court of his or her adjudication. N.C. GEN. STAT. § 7B-3200; N.C. GEN. STAT. § 7B-3201; N.C. GEN. STAT. § 7B-2102; N.C. GEN. STAT. § 15A-151. Expungement is also available earlier under certain circumstances (see below). N.C. GEN. STAT. § 7B-3200. Individuals may also petition to expunge records of charges and allegations that did not result in adjudication. N.C. GEN. STAT. § 7B-3200(h).

Excluded Offenses

Records for offenses that would constitute Class A, B1, B2, C, D, or E felonies (including crimes such as murder, rape, and kidnapping) if committed by an adult cannot be expunged. N.C. GEN. STAT. § 7B-3200(b)(1).

Automatic (without application)

None.

Eligibility

Generally, an individual must be at least 18 years old to file a petition for expungement. N.C. GEN. STAT. § 7B-3200(a). A petition for expungement can be filed if at least 18 months have passed since the person was released from juvenile court jurisdiction and if the person has not since been adjudicated delinquent or convicted of a felony or misdemeanor, other than a minor traffic violation, in North Carolina, or any other state or federal court. N.C. GEN. STAT. § 7B-3200(b)(2).

Additionally, a person who is at least 16 years old may file a petition for expungement of juvenile records relating to a petition alleging delinquency that was dismissed without an adjudication of delinquency. N.C. GEN. STAT. § 7B-3200(h).

Expungement of the juvenile record does not apply to the fingerprints and photographs taken at the time of arrest for a felony charge. Fingerprints and photographs will be destroyed if no probable cause was found by the court, or if the child was not adjudicated delinquent for a felony or misdemeanor offense. In all other instances, the records will not be destroyed. N.C. GEN. STAT. § 7B-2102(d).

Notification

No information found.

Petition/Application

A juvenile seeking expungement must file a petition in the court where the person was adjudicated. N.C. GEN. STAT. §§ 7B-3200(a)-(b). The petition must contain the following:

- An affidavit by the petitioner stating that he or she has demonstrated good behavior since the adjudication and that he or she has not since been adjudicated delinquent or convicted of a felony or misdemeanor other than a minor traffic violation;
- Verified affidavits of two people unrelated to the petitioner or to each other stating that they know the character and reputation of the petitioner and that his or her character and reputation are good; and
- A statement that the petition is a motion in the case in which the petitioner was adjudicated delinquent. N.C. GEN. STAT. § 7B-3200(c).

The petitioner must serve the petition on the prosecutor in the district where the petitioner was adjudicated. Notice of the date of the hearing must also be provided to the prosecutor. The prosecutor may file an objection within ten days of receiving the petition. N.C. GEN. STAT. § 7B-3200(c).

Hearing

The court will conduct a hearing and will order an expungement if it finds that the juvenile meets the eligibility criteria for expungement (see “Eligibility” above). N.C. GEN. STAT. § 7B-3200.

For petitions of records of adjudications that were dismissed, the chief juvenile court counselor in the district where the petition was filed must be served with a petition for expungement of juvenile court records. If the counselor files an objection, the court must hold a hearing. At the hearing, the court must consider whether the criteria for expungement have been met. If no objection is filed, the court has the discretion to grant the petition without holding a hearing. N.C. GEN. STAT. § 7B-3200(h).

Court Process

If the court finds that the petitioner meets the criteria for expungement, it must enter an order directing the clerk of superior court and all law enforcement agencies to expunge records relating to the adjudication. The clerk must provide a copy of the order to appropriate law enforcement officials and agencies. N.C. GEN. STAT. § 7B-3200.

The clerk must then provide written notice to the petitioner that his juvenile record has been expunged.

Effect

Once a juvenile record is sealed, a judge must issue a court order for it to be viewed again. N.C. GEN. STAT. § 7B-3000(c). Sealing a record does not guarantee it will not be accessed in the future; records may be used in future criminal proceedings and sentencing for certain felony offenses. N.C. GEN. STAT. § 7B-3000(f). *See also State v. Payne*, 657 S.E.2d 445 (N.C. Ct. App. 2008) (incorporating an evaluation of sealed juvenile records into affirmance of lower court's denial of expungement petition). *See also State v. Thaggard*, 608 S.E.2d 774 (N.C. Ct. App. 2005) (explaining that "on appeal, the appellate court is required to examine sealed records to determine whether they contain information that is favorable and material to an accused's guilt or punishment.").

Sealed files can also be used to determine pretrial release or in negotiating a plea agreement. N.C. GEN. STAT. § 7B-3000(e).

Expungement allows a young person to proceed as if the adjudication had never occurred. After his or her records are expunged, a young person and his or her guardians may not be charged with perjury or giving a false statement for failing to acknowledge the expunged records. N.C. GEN. STAT. § 7B-3000(e). However, an exception may apply if a juvenile is testifying in his own defense or as a witness in a delinquency proceeding – the child may be ordered to testify about his or her past adjudications regardless of expungement. N.C. GEN. STAT. § 7B-3201(b). *See also In re S.S.T.*, 599 S.E.2d 59, 61 (N.C. Ct. App. 2004) (language of N.C. GEN. STAT. § 7B-3201 applies to all delinquency proceedings whether or not record is expunged; juvenile may be questioned as to prior adjudications of delinquency when testifying in own defense in a juvenile delinquency adjudicatory hearing).

Under N.C. GEN. STAT. § 15A-151, the administrative office of the court keeps a confidential file with the names of those who have had their records expunged.

Consequences for Sharing Sealed/Expunged Information

None found.

Fee

None found.

Resources

The Department of Juvenile Justice and Delinquency Prevention maintains a database of *arrest information* called the North Carolina Juvenile Online Information Network (NCJOIN). THE NORTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, NC-JOIN (*North Carolina – Juvenile Online Information Network*), <http://test.ncdjjdp.org/statistics/ncjoin.html>.

NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS, *Form AOC-J-906M (Notice of Expunction of Juvenile Record)*, available at <http://www.nccourts.org/Forms/Documents/551.pdf>.

Form AOC-J-909M (Petition/Order/Notice Expunction of Juvenile Records upon Dismissal) (March 2002), available at <http://www.nccourts.org/Forms/Documents/553.pdf>.

Form AOC-J-905M (Order for Expunction of Juvenile Record) (March 2002), available at <http://www.nccourts.org/Forms/Documents/550.pdf>.