

## INSTRUCTIONS FOR PETITION AND ORDER OF EXPUNCTION

### UNDER G.S. 90-96

### FORM AOC-CR-266, New 4/08

***Upon the completion of the form AOC-CR-266, Petition And Order Of Expunction Under G.S. 90-96, the procedure is as follows:***

1. No order should be entered until this form has been completed by the defendant, a judge, the SBI, and the AOC and has been returned to the clerk as explained below.
2. The defendant or attorney should complete all offense information on side one of this form from the court file, complete and sign the petition, obtain judge's signature and forward the petition to the SBI.
3. The SBI shall then complete CHRI and forward it to the AOC.
4. The AOC shall complete the record and mail it to the Clerk of Superior Court in the county where the expunction is pending.
5. The clerk places the sealed envelope in the file, to be opened by the presiding judge when the application is heard.
6. It is the responsibility of the petitioner to determine when the AOC-CR-266 has been returned and to ask the clerk or DA to schedule the petition for hearing.
7. For expungements under G.S. 90-96 a fee of \$65.00 must be paid to the clerk prior to the petition being heard.
8. If an Order Of Expunction is entered, the clerk makes two copies of this form, completes "Certification By Clerk" on each copy, and sends one copy to the arresting agency and one copy to the AOC.

**NOTE: The defendant may request a copy of the Order on the date the order is signed. The defendant may also request additional certified copies. The defendant may want to send a copy to the Department of Correction so that department can remove any record of the case from its website. The defendant must pay the appropriate certification fees.**

The address for the Department of Correction is North Carolina Department of Correction, Combined Records, Mail Service Center 4226, Raleigh, NC 27699-4226.

9. The clerk retains the original Order Of Expunction to be disposed of with the papers in this case. No other copy is made or kept.
10. If the petition is denied, all copies of the AOC-CR-266 and any accompanying information from the SBI or AOC shall be destroyed, unless the court orders otherwise.
11. List of required affidavits for an expungement under G.S. 90-96(b):
  - (1) An affidavit by the applicant that he has been of good behavior during the period of probation since the decision to defer further proceedings on the offense in question and has not been convicted of any felony, or misdemeanor, other than a traffic violation, under the laws of the United States or the laws of this State or any other state;
  - (2) Verified affidavits by two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives, and that his character and reputation are good; and
  - (3) Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted, and, if different, the county of which the petitioner is a resident, showing that the applicant has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the conviction for the offense in question or during the period of probation following the decision to defer further proceedings on the offense in question.

**NOTE TO DEFENDANT/PETITIONER:** *The expungement of your case information from the court's records does not guarantee your case information will be expunged from other sources. Private companies routinely acquire copies of criminal records to sell. Once the record is removed from the court system it may still be available for sale by the private companies. When this happens neither the Court nor the AOC can require the companies to stop selling the information. One course of action you might take is to send the company a certified record check from the clerk's office showing you have no record. Then request the company correct the inaccurate record in its database.*