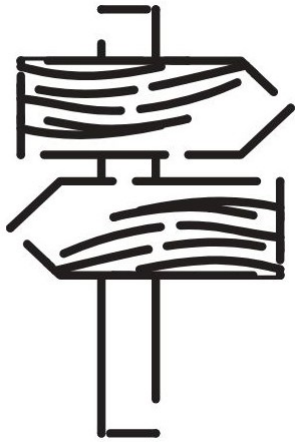


# Mass Relief Debt Remittance and Expunction



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Justice Commission

# Driver's License Restoration Project and Mass Relief

The **North Carolina Justice Center** and the **North Carolina Pro Bono Resource Center**, a program of the **Equal Access to Justice Commission**, have been partnering on the Driver's License Restoration Project since 2017.

The project began as a pilot pro bono clinic model and now focuses on **mass relief debt remittance**.

**Staffing for NC Justice Center:** 1 FT attorney, 1 PT attorney

**Staffing for PBRC:** 1 FT attorney, 1 PT attorney, 1 PT paralegal

# Summary of Mass Relief Debt Remittance

Under 15A-1363, the district attorney “may at any time petition the sentencing court for a remission or revocation of the fine or costs.” If the court finds that “the proper administration of justice requires resolution of the case, the court may remit or revoke the fine or costs.”

District attorney motions the court for remittance of fines and fees pursuant to 15A-1363 by choosing a category of traffic cases for which they are willing to petition the court for consideration of debt remittance based on (1) the length of the license suspension and (2) the underlying traffic offense.

Data available from the Administrative Office of the Courts is reviewed to identify what cases meet the criteria.

NOTE: Requires agreement from district attorney, clerk’s office, and at least one judge.

\*Mass Relief excluded offenses are listed in red.

**AGG FEL SER INJURY BY VEHICLE - § 20-166(e)**  
**AID AND ABET IMPAIRED DRIVING - § 20-138.1**  
 ALLOW UNLICENSE MINOR TO DRIVE - § 20-32  
 ALLOW UNLICENSED TO DRIVE - § 20-34  
 ALTERED REG CARD/TAG - § 20-111  
 BRAKE/STOP LIGHT EQUIP VIOL - § 20-129  
 BUY/SELL VEHICLE NO LICENSE-  
 BY FAILING TO YIELD RIGH OF WAY  
 ENTERING (I) - § 20-155  
 CANCL/REVOK/SUSP CERTIF/TAG -- § 20-111  
 CARELESS AND RECKLESS DRIVING- § 20-140  
 CENTER LANE VIOLATION - § 20-28.1  
 CHILD NOT IN REAR SEAT -§ 20-28.1  
 CITY/TOWN VIOLATION (I)  
 CITY/TOWN VIOLATION (M)  
 COVERING/DISGUIISING REG PLATE - § 20-111  
 DARKENED WINDSHIELD/WINDOWS - § 20-127(b)  
**DELIV/ACCEPT BLANK/OPEN TITLE - § 20-72**  
 DIRECTIONAL SIGNALS EQUIP VIOL - § 20-125.1  
 DR COM VEH W/O PROPER ENDORSE - § 20-37.12  
 DR/ALLOW REG PLATE NOT DISPLAY - § 20-111  
**DRIVE AFTER CONSUMING < 21 - § 20-17(2)**  
 DRIVE LEFT OF CENTER - § 20-146  
 DRIVE WITHOUT TWO HEADLAMPS - § 20-129(B)  
 DRIVE WRONG WAY ON DUAL LANE - §20-146  
 DRIVE WRONG WAY-ONE WAY DOT - §20-165.1  
 DRIVE WRONG WAY-ONE WAY LOCAL- §20-28.1  
 DRIVE WRONG WAY-ONE WAY ST/RD - §20-165.1  
 DRIVE/ALLOW MV NO REGISTRATION - § 20-111  
 DRIVING LEFT OF CENTER § 20-146  
**DRIVING WHILE IMPAIRED - § 20-17(2)**  
**DWI - AGGRAVATED LEVEL 1 - § 20-17(2)**  
**DWI - LEVEL 1 - § 20-17(2)**  
**DWI - LEVEL 2 - § 20-17(2)**  
**DWI - LEVEL 3 - § 20-17(2)**  
**DWI - LEVEL 4 - § 20-17(2)**  
**DWI - LEVEL 5 - § 20-17(2)**  
 DWLR - § 20-28(a1)  
**DWLR AFT IMPAIRED REV NOTICE - § 20-28**  
**DWLR IMPAIRED REV - § 20-28**  
 DWLR NOT IMPAIRED REV - § 20-28  
 DWLR PERMANENT - § 20-28  
 DWLR VIOL RESTORED LIC - §20-28  
**ELUDE ARRST MV >=3 AGRV FCTRS - § 20-141.5(d)**  
**ELUDE ARRST MV 2 AGRVTG FCTRS - § 20-141.5(d)**  
 EXCEED POSTED SPEED IN A WORK ZONE - § 20-141  
 EXCEEDING POSTED SPEED - § 20-16.1  
 EXCEEDING SAFE SPEED - § 20-16.1  
 EXPIRED OPERATORS LICENSE - § 20-35  
 EXPIRED REGISTRATION CARD/TAG - § 20-111  
 EXPIRED/NO INSPECTION - § 20-111  
 FAIL COMPLY LIC RESTRICTIONS - § 20-35(a1)(2)  
 FAIL COMPLY RESTRICTED DRIVING - § 20-35(a1)(2)  
 FAIL EXHIBIT/SURRENDER LICENSE § 20-29  
 FAIL MAINTAIN LANE CONTROL - § 20-28.1  
**FAIL PEDESTRIAN RIGHT OF WAY - § 20-173**  
 FAIL STOP STOPSIGN/FLSH RED LT - § 20-158  
 FAIL TO APPLY FOR NEW TITLE - § 20-73  
 FAIL TO BURN HEADLAMPS - § 20-28.1  
 FAIL TO CARRY LICENSE - § 20-35

# 1. District attorney chooses criteria

## **2. Data from AOC is filtered**

AOC provides annual data set that includes all offenses that are part of a case number in which (i) at least one charge on that case has an FTC that is currently uncured and (ii) the case contains a traffic offense.

That data set is filtered to meet the district attorney's chosen criteria.

# The Filtering Process

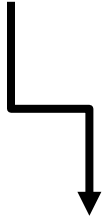
Worked with Code the Dream to develop a program that filters as follows:

*-If any charge in the Convicted Offense GS column for a given case does not start with 20-, the entire case should be excluded.*

*-If all charges with a date in the FTC column also have a date in the FTC Compliance column, the entire case should be excluded.*

*-Exclude all rows with a blank in both Convicted Offense Text and Convicted Offense GS*

*-For all remaining cases, combine cases with multiple rows into one line.*



**Manually filter out in Excel all Chapter 20 traffic charges that do not meet the district attorney's criteria and filter by disposition date of case.**

# 3. Motions and Orders are Prepared for Filing

STATE OF NORTH CAROLINA  
COUNTY OF EDGECOMBE

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_

STATE OF NORTH CAROLINA )  
 )  
 )  
 V. )  
 )  
 DEFENDANTS OF REFERENCED )  
 CASES )

MOTION TO REMIT  
COSTS AND FINES

The State hereby requests the Court remit all penalties, fines and/or costs in the above-captioned matter based on the proper administration of justice. In support of this request the State shows unto the Court the following:

1. Pursuant to N.C.G.S. 15A-1363, "A defendant who has been required to pay a fine or costs, including a requirement to pay fine or costs as a condition of probation, or a prosecutor, may at any time petition the sentencing court for a remission or revocation of the fine or costs or any unpaid portion of it. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine or costs no longer exist, that it would otherwise be unjust to require payment, or that the proper administration of justice requires resolution of the case, the court may remit or revoke the fine or costs or the unpaid portion in whole or in part or may modify the method of payment."
2. The defendants in the foregoing attachment were found to be responsible and/or guilty of the listed traffic offenses and ordered to pay penalties, fines, and/or costs.
3. As of the date of this motion, those penalties, fines, and/or costs have not been paid in full.
4. As a result of defendant' failure to comply, these defendants' driver's licenses have been indefinitely suspended.
5. Based on the lengths of the failures to comply and resulting driver's license suspensions, the proper administration of justice requires resolution of these cases.

Therefore, the State respectfully requests that the Court remit all penalties, fines, and/or costs assessed as part of the judgments in each case, including the FTA fee and any late fee assessed by the Clerk's Office.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
District Attorney

STATE OF NORTH CAROLINA  
COUNTY OF EDGECOMBE

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_

STATE OF NORTH CAROLINA )  
 )  
 )  
 V. )  
 )  
 DEFENDANTS OF REFERENCED )  
 CASES )

ORDER TO REMIT  
COSTS AND FINES

Upon written motion by the State and based on the factors detailed in that motion, the Court concludes that the proper administration of justice requires remission of all penalties, fines, and/or costs, including any 20-day FTA fee and any late fee assessed by the Clerk's Office, in the above-captioned matter and referenced in the addendum to State's Motion to Remit Costs and Fines. All fees, penalties, fines, and/or costs are remitted and all FTCs are stricken.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Presiding Judge

# Process for Clerk's Office

Step 1. Mass Motion is calendared at a formally scheduled session of open criminal court. This meets the notification requirement for fee waivers.

Step 2. Judge signs the provided order and initials each page of case number addendum. Court orders that all fees, penalties, fines, and costs be remitted, that FTA or FTC is stricken, and that any Order for Arrest is recalled.

Step 3: For each case, the Clerk goes into CCIS to post disposition screen and selects: FTC stricken/ Clerk Error. (See p. 174 of CCIS manual instruction stating that this checkbox *“means that the FTC was entered in error **or ordered by the judge to be stricken.**”*).

Step 4: On Monies Tab in CCIS, Clerk writes in Correction Reason: PER ORDER OF JUDGE (presiding judges name), ALL FEES, PENALTIES, FINES, AND/OR COSTS ARE REMITTED, FTA&FTC ARE STRICKEN, AND OFA RECALLED.”

- NOTE: May decide to add “Pursuant to Driver’s License Restoration Project and Per Order of Judge...”

Step 5: Clerk clicks on Court Cost Details, chooses WAIVE/REMIT ALL. In fines, Clerk uses the STATUS box and chooses WAIVED/REMITTED.



# Notification and Next Steps

**NC Fair Chance** About

**Take Action.  
Restore Your Life.**

 **RESTORE YOUR DRIVER'S LICENSE**

 **COMING SOON!  
REMOVE CHARGES FROM YOUR CRIMINAL RECORD**

**Getting you safely back on the road and back to work!**

# Mass Relief Debt Remittance

## Completed-

- ❑ Durham; *Satana Deberry*, 16<sup>th</sup> District
- ❑ Mecklenburg; *Spencer Merriveather*, 26<sup>th</sup> District
- ❑ Pitt, *Faris Dixon*, 3<sup>rd</sup> District
- ❑ Rockingham and Caswell; *Jason Ramey*, 22<sup>nd</sup> District
- ❑ Gaston; *Locke Bell*, 38<sup>th</sup> District
- ❑ New Hanover and Pender; *Ben David*, 6<sup>th</sup> District

## In Process-

- ❑ Buncombe; *Todd Williams*, 40<sup>th</sup> District
- ❑ Guilford; *Avery Crump*, 24<sup>th</sup> District
- ❑ Edgecombe, Nash, and Wilson; *Robert Evans*, 8<sup>th</sup> District
- ❑ Wake; *Lorrin Freeman*, 10<sup>th</sup> District

# Mass Relief Debt Remittance

<b>District</b>	<b>Number of Cases with Fines &amp; Fees Remitted</b>
Durham	14,000
Mecklenburg	11,450
Pitt	4,280
New Hanover and Pender	7,158
Rockingham and Caswell	4,775
Gaston	4,114
Guilford	1,279 (est)
Buncombe	100 (est)
<b>TOTAL</b>	<b>47,156</b>

**524** license restoration **advice letters** provided to clients through **ncfairchance.org**

# Mass Relief Debt Remittance- Challenges

- ❑ Data is not perfect (ex- FTCs not entered on all charges).
- ❑ Staff resources.
- ❑ Data filtration and motion prep is time-intensive.
- ❑ Requires coordination and agreement from district attorney, local clerk's office, and at least one judge- not a statewide approach... yet!
  - Hesitancy from local jurisdictions given the resources needed to implement Odyssey in the coming years.
- ❑ Lack stats on license reinstatement for people who have received help.

Mass Expunction Relief  
Under 15A-145.8A

# The Second Chance Act (Senate Bill 562)



In 2020, bipartisan Second Chance Act was signed into law to significantly expand expunction eligibility.

Allowed for expunction of convictions that obtained by 16 and 17 year olds before December 1, 2019.

Colloquially called Raise the Age parity.

# Raise the Age Parity

N.C. Gen. Stat 15A-145.8A.

- (a) A ... **district attorney may file**, in the court of the county where the person was convicted, **a petition for expunction** from the person's criminal record of **any misdemeanor or Class H or I felony not excluded by subsection (b)** of this section **if the offense was committed prior to December 1, 2019**, and **while the person was less than 18 years of age, but at least 16 years of age...**
- (b) An offense is not eligible for expunction... if it is (i) a violation of the motor vehicle laws under **Chapter 20 of the General Statutes**, including any offense involving impaired driving as defined in G.S. 20-4.01(24a) or (ii) an **offense requiring registration** pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.

# DA-Initiated Expunction Relief

1. District Attorney's Office request data from AOC. Data set will include information for convictions that are eligible and convictions that may be eligible but need further review.
2. Once the data is received, District Attorney determines which convictions they want to proceed with.
3. Upon request, AOC populates expunction petitions, and notifies victim and defendant-petitioner.
4. District Attorney's Office fills in any missing information, signs petitions, and submits to Clerk's Office.
5. Clerk's Office processes petition.
6. Judge must grant expunction petitions.
7. Clerk's Office destroy physical and electronic report of convictions & mail certified copies of granted petition to defendant and arresting agencies listed on petition.





# Status of Mass Relief Expunction

- ❑ Mecklenburg County district attorney did a test run of 50 cases and found significant issues with the data-- AOC has since created a method of cross-checking active sentences, outstanding restitution, and civil judgment orders. Now Mecklenburg County district attorney's office is working with other stakeholders on a method of further filtering.
- ❑ Durham County district attorney has completed mass relief expunction for all felonies and any misdemeanors associated with the same case number.

# Challenges of Mass Relief Expunction

*“Money, human resources, and technology”*

Petition requires filling out AOC Form 293 for each individual— cannot currently complete a “mass motion” similar to mass relief debt remittance.

Notification to victim/ complainant requirement under Marsy’s Law-- requires significant administrative resources.

Clerks and district attorneys are poised to implement Odyssey and have resource constraints related to this implementation.

Buy-in: question over cost for district attorney’s office versus benefit to the recipient of the expunction. Desire to prioritize those with less serious adult records first and that is not possible due to data constraints.

## Challenges of Mass Relief Expunctions: Areas for Improvement

- ❑ Data challenges.
- ❑ Ongoing resources are needed for local clerks' offices processing petitions and for district attorney's offices, particularly as Odyssey implementation begins.
- ❑ Develop best practices regarding automatic and DA-initiated expunctions for non-citizens given the potential consequences of expunction in immigration court.

# Questions?

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**Leigh Wicclair**, NC Equal Access to Justice Commission, [leigh@ncprobono.org](mailto:leigh@ncprobono.org)