

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1224

Introduced by

Representatives Klemin, Kretschmar, L. Meier

Senators Dever, Lyson, Nething

1 A BILL for an Act to amend and reenact subsection 8 of section 19-03.1-23, subsection 3 of
2 section 29-10.2-05, and section 31-13-07 of the North Dakota Century Code, relating to
3 changing expunged records to sealed records.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 8 of section 19-03.1-23 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 8. When a person pleads guilty or is found guilty of a first offense regarding
8 possession of one ounce [28.35 grams] or less of marijuana and a judgment of
9 guilt is entered, a court, upon motion, shall ~~expunge~~ seal the court record of that
10 conviction ~~from the record~~ if the person is not subsequently convicted within two
11 years of a further violation of this chapter and has not been convicted of any other
12 criminal offense. Once sealed, the court record may be opened solely by order of
13 the court upon the showing of good cause.

14 **SECTION 2. AMENDMENT.** Subsection 3 of section 29-10.2-05 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 3. ~~No~~ A report or presentment of a state grand jury relating to an individual which is
17 not accompanied by a true bill of indictment may not be made public or be
18 published until the individual concerned has been furnished a copy ~~thereof~~ of the
19 report and given thirty days to file with the district court a motion to suppress or
20 ~~expunge~~ seal the report or ~~that a portion which that~~ is improper and unlawful. ~~Any~~
21 ~~such~~ The motion, whether granted or denied, automatically acts as a stay of public
22 announcement of ~~such~~ the report, or portion ~~thereof~~ of the report, until the district
23 court's ruling on the motion is either affirmed or denied by an appellate court, or
24 until the time ~~within~~ in which ~~such~~ the order may be ~~so~~ appealed has expired,

1 whichever occurs first. The report or portion of the report which is suppressed or
2 sealed may be opened solely by order of the court upon a showing of good cause.

3 **SECTION 3. AMENDMENT.** Section 31-13-07 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **31-13-07. Removal of DNA profiles from data base.** A person whose DNA profile
6 has been included in the data base ~~pursuant to~~ under this chapter may petition the district court
7 ~~for expungement to seal the court record~~ on the grounds that the conviction on which the
8 authority for including the DNA profile was based has been reversed or the case dismissed.
9 The laboratory shall expunge all identifiable information in the data base pertaining to the
10 person and destroy all samples from the person upon receipt of a certified order. The
11 detention, arrest, or conviction of a person based upon data base information is not invalidated
12 if it is later determined that the specimens or samples were obtained or placed in the data base
13 by mistake. The sealed record may be opened solely by order of the court upon a showing of
14 good cause.