

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1166

Introduced by

Representatives Pyle, O'Brien, Vetter, Berg

Senators Larson, Myrdal

1 A BILL for an Act to create and enact a new section to chapter 12-60.1 of the North Dakota
2 Century Code, relating to ~~sealing~~closing certain criminal records; and to amend and reenact
3 ~~section~~sections 12-60.1-01 and 12-60.1-02 of the North Dakota Century Code, relating to
4 closed records and grounds to file a petition to seal a criminal record; ~~and to declare an~~
5 ~~emergency.~~

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** Section 12-60.1-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **12-60.1-01. Definitions.**

10 As used in this chapter:

11 1. "Closed" means subject to examination only by a clerk of court, a judge of the court,
12 the juvenile commission, a criminal justice agency, the defendant, the defendant's
13 counsel, a state's attorney, or any person upon written order of a judge of the court.

14 2. "Court record" includes:

- 15 a. Any document or information collected, received, or maintained by court
16 personnel in connection with a judicial proceeding;
- 17 b. Any index, calendar, docket, register of actions, official record of the proceedings,
18 order, decree, judgment, minute, and any information in a case management
19 system created or prepared by court personnel relating to a judicial proceeding;
20 and

c. Information maintained by court personnel pertaining to the administration of the court or clerk of court office and not associated with a particular case.

~~2.3.~~ "Criminal justice agency" has the same meaning as in section 12-60-16.1.

~~4.~~ "Criminal record" means court and prosecution records subject to sealing under this chapter. A criminal record does not include criminal history record information as defined in subsection 5 of section 12-60-16.1 or criminal justice data information maintained in the criminal justice data information sharing system under section 54-12-34.

~~3.5.~~ "Prosecutor" means the office or agency with jurisdiction over the offense for purposes of postconviction proceedings.

~~4.6.~~ "Nonconviction" means dismissal of all criminal charges in a case or acquittal of all criminal charges in a case.

~~7.~~ "Seal" means to prohibit the disclosure of the existence or contents of court or prosecution records unless authorized by court order.

SECTION 2. AMENDMENT. Section 12-60.1-02 of the North Dakota Century Code is amended and reenacted as follows:

12-60.1-02. Grounds to file petition to seal criminal record.

1. An individual may file a petition to seal a criminal record if:

a. The individual pled guilty to or was found guilty of a misdemeanor offense and the individual has not been convicted of a new crime for at least three years before filing the petition; ~~or~~

b. The individual pled guilty to or was found guilty of a felony offense and the individual has not been convicted of a new crime for at least five years before filing the petition; or

c. The individual was granted an unconditional pardon of the criminal conviction by the governor and the governor has recommended the record be sealed.

2. ~~This~~Except as provided under section 23 of this Act, this chapter does not apply to:

a. A felony offense involving violence or intimidation during the period in which the offender is ineligible to possess a firearm under subdivision a of subsection 1 of section 62.1-02-01; or

- b. An offense for which an offender has been ordered to register under section 12.1-32-15.

~~**SECTION 3.** A new section to chapter 12-60.1 of the North Dakota Century Code is created and enacted as follows:~~

~~**Certain criminal records automatically sealed.**~~

~~**1. The court shall seal any criminal record wherein:**~~

~~**a. An individual was found not guilty by a jury or at the conclusion of a bench trial;**~~

~~**b. All criminal charges were dismissed; or**~~

~~**c. An individual was granted a pardon by the governor of the criminal conviction.**~~

~~**2. The court shall seal a criminal record under subsection 1 within ninety days after the judgment of acquittal, order to dismiss, or pardon was filed with the clerk of court. A record of a closed criminal case if there was no conviction may not be remotely accessed by a name search.**~~

SECTION 3. A new section to chapter 12-60.1 of the North Dakota Century Code is created and enacted as follows:

Closing nonconviction records.

1. If a court enters an order of nonconviction on or after August 1, 2025, the court shall close the court record upon the expiration of sixty-one days.

2. The defendant may file a petition to the court to have the court record closed if the court entered an order of nonconviction for a case disposed of before August 1, 2025. If the defendant meets the requirements of this section, the court shall enter an order closing the court record within ten days of the petition being filed.

3. This section does not apply if:

a. The dismissal was the result of a plea agreement involving a conviction on another offense;

b. The case was dismissed due to a finding the individual was not fit to proceed under chapter 12.1-04;

c. The case resulted in a verdict of not guilty due to a lack of criminal responsibility under chapter 12.1-04.1; or

d. The case was appealed.

4. A filing fee may not be charged for a petition filed under this section.

1 | — **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.