



North Dakota Association for Justice
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The Trial Lawyers of North Dakota

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Chairman Klemin and members of the House Judiciary Committee, my name is Jaclyn Hall, I am the Executive Director of the North Dakota Association for Justice. I am here today in support of HB1166.

After the last biennium, the ND Supreme Court made changes to Administrative Rule 41, removing the following sentence:

A record of a closed criminal case for which there is no conviction may not be remotely accessed through a name search except by an attorney granted remote access to the Odyssey system

The removal of this language had a retroactive effect and opened all dismissed and not guilty court records previously not available on the Supreme Court website to be viewed by the public for continued scrutiny. These records had been previously removed by petition.

The Constitution says we are innocent until proven guilty. When a jury finds someone not guilty, the prosecutor determined the charges should be dismissed or they have reformed their life and received a pardon, why should their records be open for anyone to view?

These individuals have gone through so much emotional and financial strain during cases like these. After the due diligence has been completed, should they continue to have others search their name and wonder what they did?

Even though these individuals are found not guilty, the arrest and charges may still appear in background checks, create social stigmas and negative perceptions and result in damage to someone's reputation.

Sealing criminal records is not new. HB1166 will follow the same sealing process as a criminal record that resulted in a deferred sentence. In those situations, after 60 days, the record is sealed. Currently, there is also a statute to seal other criminal records in Chapter 12-60.1.

The legislation contains a retroactive clause, because we feel prior cases that were inadvertently opened by the Administrative Rule change should not have to go through the time and cost of another petition to the court.



Second, is a photo of a redacted court record. As you can see, this individual was not guilty of conspiracy, but their record remains open for anyone to see on the court search. Having this criminal record is not fair to the person who was found not guilty.

Criminal Case Records Search Results

Skip to Main Content Logout My Account Search Menu New Criminal Search Refine Search Location : State of North Dakota Hel

Record Count: 3
 Search By: Defendant Exact Name: on Party Search Mode: Name Last Name: [REDACTED] First Name: [REDACTED] All All Sort By: Filed Date

Case Number	Citation Number	Defendant Info	Filed/Location/Judicial Officer	Type/Status	Charge(s)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
09-20 [REDACTED]	0	[REDACTED]	[REDACTED]	Misdemeanor Closed Not Guilty	Conspiracy [REDACTED]

As for pardons, the criminal record on the records search remains and you must go into each record to see that the charges were dismissed, and they received a pardon. These individuals have worked hard to rebuild their life, and their charges should be removed from any public searches.

We do have one suggested amendment to the legislation. This came after discussion with the ND State’s Attorney’s Association. They had a concern that if someone had multiple charges on one criminal record and one or two were dismissed, how would you go about removing a portion of the record.

On page 2, line 4, the text reads:

The criminal charge was dismissed; or

We would suggest changing the line to:

All criminal charges in the record are dismissed; or

This change would ensure that a criminal record with multiple charges would remain on the record until other action was taken.

In conclusion, even when charges are dismissed by the court or a person is found not guilty, the public perception of ‘being found guilty’ can still have a



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detrimental impact on their life. This legislation will remove these records from a public search to provide some protection to their personal and professional life.

We ask for a Do Pass on HB1166.

Thank you, and I will stand for questions.