

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1224
(Representatives Klemin, Kretschmar, L. Meier)
(Senators Dever, Lyson, Nething)

AN ACT to amend and reenact subsection 8 of section 19-03.1-23, subsection 3 of section 29-10.2-05, and section 31-13-07 of the North Dakota Century Code, relating to changing expunged records to sealed records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1224.

House Vote: Yeas 88 Nays 4 Absent 2

Senate Vote: Yeas 43 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State