

**2025 HOUSE JUDICIARY**

**HB 1166**

# 2025 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1166  
1/13/2025

Relating to grounds to file a petition to seal a criminal record; to provide for retroactive application; and to declare an emergency.

9:02 a.m. Chairman Klemin called the meeting to order.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representatives S. Olson and Satrom

## **Discussion Topics:**

- Administrative rule relating to criminal records
- Process of sealing and opening criminal records

9:04 a.m. Representative Brandy Byle, North Dakota Representative for District 22, introduced the bill and provided testimony #28606.

9:07 a.m. Jaclyn Hall, Executive Director of the North Dakota Association for Justice, testified in favor and submitted testimony #28627.

9:15 a.m. Chrystopher Bitz, Mandan, North Dakota, testified in favor and submitted testimony #28571.

9:17 a.m. Brad Peterson, Legal Director at the North Dakota Protection and Advocacy Project, testified in favor and submitted testimony #28419

9:20 a.m. Cecile Wehrman, Executive Director of the North Dakota Newspaper Association, testified in opposition and provided testimony #28739.

9:28 a.m. Sara Behrens, Staff Attorney with State Court Administrator's Office, testified in opposition and provided testimony #28568.

## **Additional written testimony:**

Adam Martin, CEO of the F5 Project, submitted testimony in favor #28620

Joseph Jahner, Bismarck, North Dakota, submitted testimony in favor #28588

Katie Winbauer, Lobbyist for the North Dakota Newspaper Association, submitted testimony in opposition #28564

9:42 a.m. Chairman Klemin closed the hearing.

*Wyatt Armstrong, Committee Clerk*



# Protection & Advocacy Project

400 E. Broadway, Suite 409

Bismarck, ND 58501

701-328-2950

1-800-472-2670

TTY: 711

[www.ndpanda.org](http://www.ndpanda.org)



House Judiciary Committee  
House Bill 1166 - January 13, 2025  
Testimony of Brad Peterson P&A Legal Director

Greetings Chairman Klemin and members of the Judiciary Committee. My name is Brad Peterson and I'm the Legal Director at the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

We request a Do Pass on HB 1166. It is not uncommon for a person with mental illness or a disability to have a criminal record for very minor events, unfortunately no matter how minor the criminal record, it likely impacts a person's access to housing and employment or other services.

The passage of HB 1166 would allow an individual better inclusion in their communities by removing unnecessary barriers.

Thank you for your time and consideration.

Brad Peterson  
P&A Legal Director  
[brapeterson@nd.gov](mailto:brapeterson@nd.gov)

January 13, 2025

HB 1166 - House Judiciary Committee

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Chairman Klemin and committee members:

The North Dakota Newspaper Association does not oppose the overall nature of House Bill 1166 but wishes to offer its perspective on issues related to automatically sealing criminal records.

Section 2 of this bill requires the court to automatically seal criminal records **within** 61 days after a judgment of acquittal, order of dismissal, or pardon is filed. This means the court could take action to seal the case the day the final disposition is entered. Since this provision is automatic, we presume courts will take action sooner rather than later since this does not require a further motion by the defendant.

Occasionally, a case that would be sealed under this bill is a case that journalists have followed and reported on. An automatic sealing of records raises concerns about transparency and the public's right to open records<sup>1</sup>. For example, a journalist may be following a story about a criminal case with a trial set in two months. However, if the prosecutor moves to dismiss the case and the judge signs the order and automatically seals the case today, the journalist will have no way to accurately report the disposition of the case. The next time they check the court docket, the case will not appear. This may actually harm the defendant where a story was previously reported about criminal charges but no follow up story can be reported regarding the dismissal.

Accordingly, NDNA proposes an amendment to subsection 2 of Section 2, to state:

2. The court shall seal a criminal record under subsection 1 ~~within~~after sixty-one days after the judgment of acquittal, order to dismiss, or pardon was filed with the clerk of court.

This amendment provides some time for the record to stay public in order for a journalist or the general public to obtain information related to final outcome of the case prior to the record being sealed. We believe this is wholly beneficial to the individual charged with the crime.

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<sup>1</sup> The North Dakota Constitution requires that all governmental records be public, open, and accessible. N.D.Const. art. XI, §6. The North Dakota Court System has a procedure in place wherein parties can limit access to information or seal records. N.D.Sup.Ct.Admin.R. 41.

As an additional note, Section 2 of HB 1166 raises concerns of confusion on what records, if any, can be sealed in a case involving multiple criminal charges. An individual may initially have several criminal charges in one case. Over the course of the case, some, but not all, of the charges may be dismissed. Likewise, a jury may acquit an individual on some, but not all, of the charges. The partial sealing of records within a case causes transparency concerns as a journalist may not be able to accurately report on a case involving multiple charges.

Thank you for your time and consideration.

NORTH DAKOTA NEWSPAPER ASSOCIATION



Katie L. Winbauer  
Lobbyist and Attorney

**House Bill 1048**  
**House Judiciary Committee**  
**Testimony Presented by Sara Behrens**  
**January 13, 2025**

Good morning Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in opposition to House Bill 1166. I'll touch on a few concerns the court has with this bill.

This would put a large burden on court staff to seal all of the records. Not only would it require every criminal case going forward which results in an acquittal, a dismissal, or a pardon to be sealed, it would require the court to go back to any criminal case as far back as court records exist, and seal those cases as well. It should be noted, this bill does not cover just records which are in our online case management system, but paper records which are retained, some for up to 100 years. More than 28,000 cases are filed in North Dakota each year. Even limiting the scope to the past 10 years, the clerks would have to review 283,740 cases (pulling the numbers from the court's annual reports).

Many criminal cases contain multiple charges. The individual could be acquitted of one charge or have one charge dismissed. We are not able to seal just one charge.

The constitution provides that, unless otherwise provided by law, records are open to the public. The court has provided by law, in an extensive court rule governing access to court records, which records are closed to the public. The rule details the court's policy, modeled after the open records laws governing the executive branch, of having records that are public, open, and accessible for inspection. It includes a procedure for restricting access to cases which were dismissed or where the defendant was acquitted.

This bill would severely restrict the policy of openness and prohibit the public from knowing what goes on in the courts of this state including which types of cases are being dismissed and why. Although the cases would be sealed, the information would generally still be on the internet through other searches because these cases would be public until an acquittal, dismissal, or pardon.

“Sealing” under ch. 12-60.1 means “to prohibit the disclosure of the existence or contents of court or prosecution records unless authorized by court order.” In addition to prohibiting access to the public, this would also prohibit access by the subject of the record, the prosecution, and law enforcement. Many job and rental applications ask about charges or arrests and not just convictions. If these records were sealed, a court order would be required to verify that information. If documentation regarding a charge is discovered through an internet search, the individual could not point to the court record showing that the case was dismissed or they were acquitted or pardoned.

Finally, it should be recognized that public searches on the North Dakota Supreme Court website clearly shows on the search results page if a case was dismissed or the defendant found not guilty in the status column. Cases involving a pardon display as dismissed. To see that these cases were dismissed or the defendant found not guilty would not require clicking into the case.

Because of the administrative burden and the unintended consequences of this bill, we urge a do not pass.

Chrystopher Bitz  
4027 Bayport Pl SE  
Mandan, ND 58554  
January 12, 2025

Chairman Klemin and members of the House Judiciary. My name is Chrystopher Bitz and I am testifying today in support of HB1166.

I am submitting this testimony to bring to your attention the significant impact caused by the reopening of files related to a case that was previously dismissed.

In 2021, I was wrongfully accused and charged with a felony of domestic child abuse and neglect, which was ultimately dismissed by the court after almost five months of unimaginable misery. At that time, I was informed that the dismissal meant the matter was resolved, and it would not have lasting consequences on my record or future as my attorney filed paperwork to have the files sealed and removed from public access. As an educator, and currently an assistant principal at an elementary school, these charges impacted my professional career.

However, through a student in my building, I came to discover that files related to this case have been unsealed and are now accessible to the public. On several occasions I have had to explain the situation and speak to the legality, legitimacy, and implications of what I overcame: while re-living the nightmare. I'm fearful that at any moment, the existence of these records could result in damages to my professional reputation, possible career-advancement opportunities, and significant stress in my personal and financial life.

I would like to express my full support for the protection of privacy in sealed or dismissed cases such as mine. As someone who works in the public eye, specifically in the field of education, maintaining a positive and trustworthy reputation is critical to my career. The reopening of such files undermines the purpose of dismissal or sealing and unfairly penalizes individuals who rely on the confidentiality of resolved legal matters to build and maintain their professional lives. Protecting these records is essential to safeguarding the livelihoods of individuals in professions like mine, where public trust is paramount.

I respectfully request a Do Pass on HB1166 and the Judiciary committee taking action to address this issue. This legislation will further assist me in sealing the reopened records to prevent further harm to my livelihood and future career prospects.



Thank you for your time and understanding. I appreciate the opportunity to share how this situation has negatively impacted my life and ask for the committee's support in resolving it.

Sincerely,

Chrystopher Bitz

A handwritten signature in black ink, appearing to be 'CBitz' with a long horizontal flourish extending to the right.

House Judiciary Committee House Bill 1166

January 13, 2025

Testimony of Joseph Jahner

Chairman Klemin and members of the Judiciary Committee:

My name is Joseph Jahner. I am a Licensed Addiction Counselor with North Dakota Department of Corrections and Rehabilitation.

I am requesting that House Bill 1166 be passed. More often than not, criminal offenses are linked directly to the progressive brain disease of addiction. Though no one chooses to become addicted, unfortunately, often times the result of that ends in criminal convictions. Upholding the status quo is only maintaining barriers and beneficial to no, including society.

Despite completing a court-imposed sentence, many convictions carry a life sentence due to the stigma associated with having a criminal record long after its expiration. Passing HB 1166 would allow individuals who found recovery and have turned their life around a fair opportunity to pursue housing, employment, and an education, thus allowing them to contribute to society and pay taxes. I would know this, because not only I am a Licensed Addiction Counselor, I am also a person with a criminal history. I appreciate your time and consideration.

Respectfully,

Joseph Jahner, LAC

Jahner81@yahoo.com



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Brandy Pyle

District 22  
P.O. Box 337  
Casselton, ND 58012-0337  
[bpyle@ndlegis.gov](mailto:bpyle@ndlegis.gov)

## COMMITTEES:

Appropriations

HB 1166  
Judiciary  
1.13.2025  
9 am

Good morning, Chair Klemin and Committee. I'm here to introduce HB 1166 for your consideration.

In 2017, the Supreme Court amended Administrative Rule 41 and included a provision stating, "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."

After the last biennium, the Supreme Court rewrote this rule, and that sentence was removed. The effect of the removal has had unintended consequences, because it retroactively placed dismissed and not guilty criminal records back into the public search option on the court's website. Some of these records were thirty to forty years old. You will hear testimony this morning how this change has had negative impacts on those whose charges were dismissed, found not guilty or pardoned.

This legislation will create a process for criminal records to be sealed, much like is currently the process for successful completion of a deferred sentence or of a completed criminal sentence in Chapter 12.-60.1

I urge the committee to make a due pass recommendation on HB1166

I stand for any questions

Thank you.

Brandy L. Pyle

01/12/2025



**FROM THE DESK OF ADAM MARTIN FOUNDER AND CEO OF F5 PROJECT**

Chairman Klemin and members of the Judiciary Committee,

My name is Adam Martin, and I am the Founder and CEO of the F5 Project, an organization dedicated to supporting individuals impacted by the justice system. We provide essential services to help people find recovery, secure housing, gain employment, and remain law-abiding.

Today, I am here to advocate for a DO PASS on HB 1166. Many, including myself, have greatly benefited from the Criminal Record Seal law. Recently, I received a pardon from Governor Burgum, a significant milestone that represents the hard work we have all put into turning our lives around. For many of us, this was a hopeful step towards finally allowing background checks to reflect our progress, enabling us to secure housing and employment without the barriers of past records.

However, we have faced ongoing frustration. Despite receiving a pardon, I discovered that nothing has been removed from the North Dakota Courts database. The only change made was the addition of a note in my court documents indicating that I was pardoned. This information is buried within the details of each document, and does not truly erase the stigma of guilt that still lingers.

It is particularly disheartening that individuals who have been wrongfully accused, found not guilty, or had their cases dismissed must also grapple with the existence of these court records. We are advocating for a system that recognizes and supports the journeys of those who have worked hard to rebuild their lives. Thank you for considering this important legislation.

Adam Martin, Founder and CEO of F5 Project



701.210.2491



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Fargo, ND 58102



**North Dakota Association for Justice**  
PO Box 365  
Mandan, ND 58554  
*The Trial Lawyers of North Dakota*

Jaclyn Hall, Executive Director  
jaclyn@ndaj.org

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.

There is also an emergency clause on this legislation to help those who are impacted start the process to remove their non conviction from the website.

Finding housing, getting a job or promotion or even professional relicensing has been impacted by this change.

Below is the current process under Administrative Rule 41. Even though you cannot see what their charges were, this record could have a detrimental impact on their personal and professional life.

[illegible]



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: First Name: All All Sort By: Filed Date

Case Number	Citation Number	Defendant Info	Filed/Location/Judicial Officer	Type/Status	Charge(s)
<a href="#">09-20</a>	0			Misdemeanor Closed Not Guilty	Conspiracy

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



**North Dakota Association for Justice**

PO Box 365

Mandan, ND 58554

*The Trial Lawyers of North Dakota*

Jaclyn Hall, Executive Director

[jaclyn@ndaj.org](mailto:jaclyn@ndaj.org)

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.



January 13, 2025

HB 1166 - House Judiciary Committee

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Chairman Klemin and committee members:

The North Dakota Newspaper Association does not oppose the overall nature of House Bill 1166 but wishes to offer its perspective on issues related to automatically sealing criminal records.

Section 2 of this bill requires the court to automatically seal criminal records **within** 61 days after a judgment of acquittal, order of dismissal, or pardon is filed. This means the court could take action to seal the case the day the final disposition is entered. Since this provision is automatic, we presume courts will take action sooner rather than later since this does not require a further motion by the defendant.

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Accordingly, NDNA proposes an amendment to subsection 2 of Section 2, to state:

2. The court shall seal a criminal record under subsection 1 ~~within~~after sixty-one days after the judgment of acquittal, order to dismiss, or pardon was filed with the clerk of court.

This amendment provides some time for the record to stay public in order for a journalist or the general public to obtain information related to final outcome of the case prior to the record being sealed. We believe this is wholly beneficial to the individual charged with the crime.

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As an additional note, Section 2 of HB 1166 raises concerns of confusion on what records, if any, can be sealed in a case involving multiple criminal charges. An individual may initially have several criminal charges in one case. Over the course of the case, some, but not all, of the charges may be dismissed. Likewise, a jury may acquit an individual on some, but not all, of the charges. The partial sealing of records within a case causes transparency concerns as a journalist may not be able to accurately report on a case involving multiple charges.

Thank you for your time and consideration.

NORTH DAKOTA NEWSPAPER ASSOCIATION

A handwritten signature in cursive script, appearing to read "Kl Winbauer".

Katie L. Winbauer  
Lobbyist and Attorney

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Judiciary Committee Room JW327B, State Capitol

HB 1166  
1/20/2025

A BILL for an Act to create and enact a new section to chapter 12-60.1 of the North Dakota Century Code, relating to sealing certain criminal records; to amend and reenact section 12-60.1-02 of the North Dakota Century Code, relating to grounds to file a petition to seal a criminal record; to provide for retroactive application; and to declare an emergency.

2:23 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Vice-Chairman Vetter, Representatives Henderson, Satrom

### Discussion Topics:

- Retroactive application of the bill
- Other methods of searching for criminal records

2:23 p.m. Chairman Klemin proposed an Amendment LC: 25.0400.03001, testimony #38328.

2:37 p.m. Representative Tveit moved to Adopt Amendment LC: 25.0400.03001, testimony #38328.

2:37 p.m. Representative Karls seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	A
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	A
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

2:41 p.m. Motion passed 11-0-3

2:41 p.m. Representative VanWinkle moved a Do Pass as Amended.

2:41 p.m. Representative Karls seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	A
Representative Nels Christianson	Y
Representative Donna Henderson	Y
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	A
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

2:43 p.m. Motion Passed 11-0-3

2:43 p.m. Representative Karls will carry the bill.

2:44 p.m. Chairman Klemin closed the hearing.

*Wyatt Armstrong, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1166**

Introduced by

Representatives Pyle, O'Brien, Vetter, Berg

Senators Larson, Myrdal

*Jgm 1-20-25*  
*1 of 2*

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 certain criminal records; to amend and reenact section  
3 12-60.1-02 of the North Dakota Century Code, relating to grounds to file a petition to seal a  
4 criminal record; ~~to provide for retroactive application~~; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 12-60.1-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **12-60.1-02. Grounds to file petition to seal criminal record.**

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

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

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

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

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

- 1           b. An offense for which an offender has been ordered to register under section  
2           12.1-32-15.

3       **SECTION 2.** A new section to chapter 12-60.1 of the North Dakota Century Code is created  
4 and enacted as follows:

5       **Certain criminal records automatically sealed.**

- 6       1. The court shall seal any criminal record wherein:  
7           a. An individual was found not guilty by a jury or at the conclusion of a bench trial;  
8           b. ~~The~~All criminal ~~charge was~~charges were dismissed; or  
9           c. An individual was granted a pardon by the governor of the criminal conviction.  
10       2. The court shall seal a criminal record under subsection 1 within ~~sixty-one~~ninety days  
11       after the judgment of acquittal, order to dismiss, or pardon was filed with the clerk of  
12       court. A record of a closed criminal case if there was no conviction may not be  
13       remotely accessed by a name search.

14       ~~—SECTION 3. RETROACTIVE APPLICATION. This Act applies to the criminal record of any~~  
15       ~~criminal case closed before the effective date of this Act, for which there was no conviction or~~  
16       ~~for which a pardon was granted.~~

17       **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

**REPORT OF STANDING COMMITTEE  
HB 1166**

**Judiciary Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS** ([25.0400.03001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1166 was placed on the Sixth order on the calendar.

25.0400.03001  
Title.04000

Prepared by the Legislative Council  
staff for Representative Klemin  
January 20, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### 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 certain criminal records; to amend and reenact section  
3 12-60.1-02 of the North Dakota Century Code, relating to grounds to file a petition to seal a  
4 criminal record; ~~to provide for retroactive application~~; and to declare an emergency.

#### 5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 12-60.1-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

#### 8 **12-60.1-02. Grounds to file petition to seal criminal record.**

- 9 1. An individual may file a petition to seal a criminal record if:
  - 10 a. The individual pled guilty to or was found guilty of a misdemeanor offense and  
11 the individual has not been convicted of a new crime for at least three years  
12 before filing the petition; or
  - 13 b. The individual pled guilty to or was found guilty of a felony offense and the  
14 individual has not been convicted of a new crime for at least five years before  
15 filing the petition.
- 16 2. ~~This~~ Except as provided under section 2 of this Act, this chapter does not apply to:
  - 17 a. A felony offense involving violence or intimidation during the period in which the  
18 offender is ineligible to possess a firearm under subdivision a of subsection 1 of  
19 section 62.1-02-01; or



- 1           b. An offense for which an offender has been ordered to register under section  
2           12.1-32-15.

3       **SECTION 2.** A new section to chapter 12-60.1 of the North Dakota Century Code is created  
4 and enacted as follows:

5       **Certain criminal records automatically sealed.**

6       1. The court shall seal any criminal record wherein:

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

8           b. ~~The~~All criminal ~~charge was~~charges were dismissed; or

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

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

14 ~~—SECTION 3. RETROACTIVE APPLICATION. This Act applies to the criminal record of any~~  
15 ~~criminal case closed before the effective date of this Act, for which there was no conviction or~~  
16 ~~for which a pardon was granted.~~

17       **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

**2025 SENATE JUDICIARY**

**HB 1166**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Judiciary Committee

Peace Garden Room, State Capitol

HB 1166

3/11/2025

Relating to sealing certain criminal records and to grounds to file a petition to seal a criminal record; and to declare an emergency.

11:02 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

### Discussion Topics:

- Sealing criminal records
- Unintended consequences of administrative rule changes
- Public access to court records
- Legislative intent and transparency
- Challenges in court record management

11:03 a.m. Representative Pyle introduced the bill and submitted testimony in favor #39716 and #40530.

11:04 a.m. Jaclyn Hall, Executive Director of the ND Association for Justice, testified in favor and submitted testimony #40405.

11:12 a.m. Todd Ewell, Deputy Director, North Dakota Commission on Legal Counsel for Indigents, testified in favor and submitted testimony #40296.

11:18 a.m. Bradley D. Peterson, Protection and Advocacy North, testified in favor and submitted testimony #40199.

11:21 a.m. Adam Justinger, Attorney, SW&L, testified in favor and submitted testimony #40478.

11:28 a.m. Sara Behrens, Staff Attorney, North Dakota Supreme Court, testified in opposition and submitted testimony #40415.

11:42 a.m. Cammie Schack, Business Analyst IT Department, ND Courts, testified in opposition.

11:47 a.m. Jonathan Byers, State Attorney's Association, testified in opposition.

11:51 a.m. Katie Winbauer, North Dakota Newspaper Association, submitted testimony in opposition #40276.

Senate Judiciary Committee

HB 1166

3/11/2025

Page 2

11:55 a.m. Chair Larson closed the hearing.

*Kendra McCann, Committee Clerk*



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## **Representative Brandy Pyle**

District 22  
P.O. Box 337  
Casselton, ND 58012-0337  
[bpyle@ndlegis.gov](mailto:bpyle@ndlegis.gov)

## **COMMITTEES:**

Appropriations

Good morning, Chair Larson and Committee. I'm here to introduce HB 1166 for your consideration.

In 2017, the Supreme Court amended Administrative Rule 41 and included a provision stating, "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."

After the last biennium, the Supreme Court rewrote this rule, and that sentence was removed. The effect of the removal has had unintended consequences, because it retroactively placed dismissed and not guilty criminal records back into the public search option on the court's website. Some of these records were thirty to forty years old. You will hear testimony this morning how this change has had negative impacts on those whose charges were dismissed, found not guilty or pardoned.

This legislation will create a process for criminal records to be sealed, much like is currently the process for successful completion of a deferred sentence or of a completed criminal sentence in Chapter 12.-60.1

I urge the committee to make a due pass recommendation on HB1166. I do have one amendment for your consideration.

I stand for any questions

Thank you.



# Protection & Advocacy Project

400 E. Broadway, Suite 409

Bismarck, ND 58501

701-328-2950

1-800-472-2670

TTY: 711

[www.ndpanda.org](http://www.ndpanda.org)



Senate Judiciary Committee  
House Bill 1166 - March 11, 2025  
Testimony of Brad Peterson P&A Legal Director

Greetings Chair Larson and members of the Senate Judiciary Committee. My name is Brad Peterson and I'm the Legal Director at the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

We request a Do Pass on HB 1166. It is not uncommon for a person with mental illness or a disability to have a criminal record for very minor events, unfortunately no matter how minor the criminal record, it likely impacts a person's access to housing and employment or other services.

The passage of HB 1166 would allow an individual better inclusion in their communities by removing unnecessary barriers.

Thank you for your time and consideration.

Brad Peterson  
P&A Legal Director  
[brapeterson@nd.gov](mailto:brapeterson@nd.gov)

March 11, 2025

HB 1166 - Senate Judiciary Committee

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Chair Larson and committee members:

The North Dakota Newspaper Association does not oppose the overall nature of H.B. 1166 but wishes to offer an amendment regarding the automatic sealing of certain records.

Section 2 of this bill requires the court to automatically seal criminal records **within** 90 days after an order of dismissal is filed. This means the court could take action to seal the case the day the order is entered. Since this provision is automatic, we presume courts will take action sooner rather than later in order to comply with the law.

Our only concern pertains to cases where all criminal charges are dismissed. Charges are not ordinarily dismissed in an open courtroom; they are dismissed upon the motion of either party, whether that be the prosecutor or the defense. A judge then enters an order of dismissal within an unspecified time. The automatic sealing of these records raises concerns about transparency and the public's right to open records. For example, a journalist may be following a story about a criminal case with a trial set in four months. In the meantime, the prosecutor could move to dismiss the case, and the judge could grant the dismissal. All of this could be done quickly and without any notice to the public.

If a case is automatically sealed upon a dismissal, a journalist will have no way to accurately report the disposition of the case. The next time they check the court docket, the case will not appear. This may actually harm the defendant where a story was previously reported about criminal charges but no follow up story can be reported regarding the dismissal.

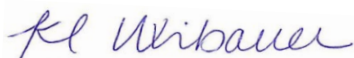
NDNA proposes an amendment to subsection 2 of Section 2, to state:

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 but not prior to thirty days after entry of an order to dismiss. A record of a closed criminal case if there was no conviction may not be remotely accessed by a name search.

This amendment provides some time for the records of dismissed cases to stay public in order for a journalist or the general public to obtain information related to the final outcome prior to the record being sealed.

Thank you for your time and consideration.

NORTH DAKOTA NEWSPAPER ASSOCIATION



Katie L. Winbauer  
Lobbyist and Attorney



HB 1166  
Senate Judiciary  
March 11, 2025  
Testimony of Todd N. Ewell, Deputy Director, NDCLCI

Good Morning. Chair Larson, members of the Committee, my name is Todd Ewell and I am the Deputy Director of the North Dakota Commission on Legal Counsel for Indigents (hereinafter "the Commission").

I rise today to in support of HB 1166. The Commission believes that automatically sealing criminal records in the circumstances outlined is the right thing to do. Individuals who have been found Not Guilty or have had criminal charges dismissed should not be burdened by allegations our court system has determined to be unfounded. By allowing the records to be sealed, these accused individuals will no longer have to provide court orders or other documentation to potential employers when pursuing new jobs. This bill will level the playing field for job seekers who simply want to put their allegations behind them. On behalf of the Commission, I request a Do Pass recommendation for HB 1166.

Respectfully submitted:

*Todd Ewell*

---

Todd N. Ewell, Deputy Director

N.D. Comm. on Legal Counsel for Indigents



**North Dakota Association for Justice**  
 PO Box 365  
 Mandan, ND 58554  
*The Trial Lawyers of North Dakota*

Jaclyn Hall, Executive Director  
 jaclyn@ndaj.org

Madam Chair Larson and members of the Senate 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 and are requesting amendments be reinstated to support the original intent of the bill.

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's criminal record search to be viewed by the public for continued scrutiny. These records had been previously removed from the criminal search by the Administrative Rule. These records had been removed by the public search since 2017.

As a result, these records can only be removed now by petitioning the court.

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. Currently a guilty verdict resulting in a deferred sentence is automatically sealed after 61 days - but a non conviction needs a court order. This does not make sense. Currently, there is also a statute to seal other criminal records in Chapter 12-60.1.





**North Dakota Association for Justice**  
PO Box 365  
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*The Trial Lawyers of North Dakota*

Jaclyn Hall, Executive Director  
jaclyn@ndaj.org

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: First Name: 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]
<a href="#">09-20</a> [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.

The legislation also was amended for the removal to commence before 90 days. In previous testimony, the newspaper association requested 61 days, the same as the deferred sentence. This change is also reflected in the amended version.

During the House discussion, we had numerous meetings and discussions with the court to determine if a consensus could be made on the retro activity or the petition to the court for non convictions to make it just a form to file with the court.

The court responded that they do not think a form is something they could support and they don't have a form to file, just the petition. Today, I am asking this committee to reinstate the retro activity or at least our compromise of seven years - when the removal of the ability to search was first granted by the administrative rule.

When the Administrative Rule was established in 2017, it retroactively removed all non convictions from the criminal search. The court did indicate it could make a retroactive change but are moving to an updated software and they are unsure how this new software functions.



**North Dakota Association for Justice**

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Jaclyn Hall, Executive Director

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We understand the court's concern but believe that the impact these searches have on North Dakotans outweigh the concern of the court. I do not believe the intention of the AR 41 change was to have these affects on individuals but we need to make a change now to restore their life.

Individuals have lost their gaming licenses, been unable to renew their passports and have been turned down for promotions, housing and other job positions.

In conclusion, even when charges are dismissed by the court or a person is found not guilty, the public perception of 'being found guilty' has a 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 with the reinstated amendments.

Thank you, and I will stand for questions.

**House Bill 1166**  
**Senate Judiciary Committee**  
**Testimony Presented by Sara Behrens**  
**March 11, 2025**

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in opposition to House Bill 1166.

We appreciate some of the amendments made by the House Judiciary Committee removing the retroactivity clause and requiring that all charges in a case be dismissed before the case must be sealed. However, we still have concerns.

One of the amendments in the House added the sentence "A record of a closed criminal case if there was no conviction may not be remotely accessed by a name search." If this applied only to records docketed after the bill's effective date, the sentence would not be needed because the case would be sealed and no longer be accessible on the public search by name or otherwise. However, if it is meant to retroactively prohibit name searches of all cases that are currently in the court's online system as it seems was the intention, this would take an extensive amount of time for both the IT staff and clerks of court. Our current public record access system will be replaced at the end of the year and we will be moving to a new application. The new application will not have the ability to restrict the name search. While we currently have the ability to do programming to comply, it is unknown what will happen when the cases are migrated to the new application that does not have that functionality. Therefore, in order to comply with that provision, IT staff would have to run a very specific query and send reports to the clerks who would have to go into each file and change the security

setting. Our already short-staffed IT and clerks offices will be burdened with extensive work to identify which cases are subject to Section 2 of the bill. Short of disabling all remote access to court records it would be impossible for the court to comply with the bill given the emergency clause. Whether the bill remains in its current form or not, the emergency clause must be removed. Disabling all remote access would then create a high volume of work to respond to phone, email, and in-person record requests. If the sentence in lines 9-11 were removed and the application were purely prospective, the court could much more easily comply. If an individual experienced issues due to a particular case, the option already exists to petition for remote access to the record to be restricted under Admin. Rule 41(4)(a).

The constitution provides that, unless otherwise provided by law, records are open to the public. The court has provided by law, in an extensive court rule (Administrative Rule 41) governing access to court records, which records are closed to the public. The rule details the court's policy, modeled after the open records laws governing the executive branch, of having records that are public, open, and accessible for inspection. It includes a procedure for restricting access to cases which were dismissed or where the defendant was acquitted. Prior to 2020, the court rule previously contained a provision equivalent to the sentence on p. 2, lines 9-11. It should be noted, that these records were always public via the courthouse or case number. The court rewrote the rule in 2020, working towards more openness and transparency and that sentence was not included in the new rule. The rule was rewritten again in 2022 to incorporate some of the open records procedures from the Century Code.

This bill would severely restrict the policy of openness and prohibit the public from knowing what goes on in the courts of this state including which types of cases are being dismissed and why. Although the cases would be sealed, the information may still be on the internet from other sources because these cases would be public and available for copying by Google and others until an acquittal, dismissal, or pardon.

“Sealing” under ch. 12-60.1 means “to prohibit the disclosure of the existence or contents of court or prosecution records unless authorized by court order.” In addition to prohibiting access to the public, this would also prohibit access by the subject of the record, the prosecution, and law enforcement. Many job and rental applications ask about charges or arrests and not just convictions. If these records were sealed, a court order would be required to verify that information. If documentation regarding a charge is discovered through an internet search, the individual could not point to the court record showing that the case was dismissed or they were acquitted or pardoned.

The bill also appears to require the court to seal records not in its possession. It states the court shall seal “any criminal record.” “Criminal record” means both court and prosecution records.

Finally, it should be recognized that public searches on the North Dakota Supreme Court website clearly show on the search results page if a case was dismissed or the defendant found not guilty in the status column. Cases subject to a pardon display as dismissed. To see that these cases were dismissed or the defendant found not guilty would not require clicking into the case.

This bill poses multiple administrative hurdles for the court and could result in a number of unintended consequences. Due to these issues, we urge a do not pass.



Members of the Senate Judiciary,

My name is Adam Justinger. I am a licensed attorney in the state of North Dakota. In my practice, I assist individuals with sealing their criminal records. Although there are several statutes that allow for people with criminal convictions to seal their criminal records (N.D.C.C. §§ 12-60.1-03 and 39-08-01.6), no statute exists for individuals who have had their charges dismissed, have been acquitted, or have received a governor's pardon.

The only remedy for an individual who has had their case dismissed, who has been acquitted, or who has received a pardon is to try and restrict access to the record under North Dakota Administrative Rule 41 Section 4. This would require an individual to petition the district court. This is a complex process that requires legal knowledge of the laws and rules in North Dakota. Not only does it require legal knowledge, but it is unduly burdensome on individuals and the courts. Lastly, under North Dakota Administrative Rule 41, an individual's record would only be restricted, not sealed. As such, a record still exists, but the details of the record are not available.

An individual is innocent until proven guilty. If a case has been dismissed, a jury has acquitted an individual, or a person's case has been dismissed by a governor's pardon, they should not be plagued with a criminal record. I intend on discussing these issues in further detail when I provide oral testimony at the hearing on March 11, 2025. I would be happy to answer any other questions at that time. Thank you.

---

Adam Justinger

25.0400.04001  
Title.

Prepared by the Legislative Council  
staff for Representative Pyle  
February 18, 2025

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 certain criminal records; to amend and reenact section  
3 12-60.1-02 of the North Dakota Century Code, relating to grounds to file a petition to seal a  
4 criminal record; to provide for retroactive application; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 12-60.1-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **12-60.1-02. Grounds to file petition to seal criminal record.**

- 9 1. An individual may file a petition to seal a criminal record if:
  - 10 a. The individual pled guilty to or was found guilty of a misdemeanor offense and  
11 the individual has not been convicted of a new crime for at least three years  
12 before filing the petition; or
  - 13 b. The individual pled guilty to or was found guilty of a felony offense and the  
14 individual has not been convicted of a new crime for at least five years before  
15 filing the petition.
- 16 2. ~~This~~Except as provided under section 2 of this Act, this chapter does not apply to:
  - 17 a. A felony offense involving violence or intimidation during the period in which the  
18 offender is ineligible to possess a firearm under subdivision a of subsection 1 of  
19 section 62.1-02-01; or

- 1           b. An offense for which an offender has been ordered to register under section  
2           12.1-32-15.

3       **SECTION 2.** A new section to chapter 12-60.1 of the North Dakota Century Code is created  
4 and enacted as follows:

5       **Certain criminal records automatically sealed.**

- 6       1. The court shall seal any criminal record wherein:  
7           a. An individual was found not guilty by a jury or at the conclusion of a bench trial;  
8           b. All criminal charges in the criminal record were dismissed; or  
9           c. An individual was granted a pardon by the governor of the criminal conviction.  
10       2. The court shall seal a criminal record under subsection 1 within ninety-sixty-one days  
11       after the judgment of acquittal, order to dismiss, or pardon was filed with the clerk of  
12       court. A record of a closed criminal case if there was no conviction may not be  
13       remotely accessed by a name search.

14       **SECTION 3. RETROACTIVE APPLICATION.** This Act applies to the criminal record of any  
15 criminal case closed after March 1, 2017, for which there was no conviction or a pardon was  
16 granted.

17       **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

# 2025 SENATE STANDING COMMITTEE MINUTES

## Judiciary Committee Peace Garden Room, State Capitol

HB 1166  
3/26/2025

Relating to sealing certain criminal records and to grounds to file a petition to seal a criminal record; and to declare an emergency.

3:22 p.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

### Discussion Topics:

- Definition of non-conviction
- Access to criminal records
- Impact of judicial dismissals

3:22 p.m. Senator Castaneda introduced proposed amendment LC# 25.0400.04003 and submitted testimony #44211.

3:28 p.m. Travis Finck, Executive Director, ND Commission on Legal Counsel for Indigents, testified as neutral and answered committee questions.

3:40 p.m. Senator Castaneda moved amendment LC# 25.0400.04003 and further amended to remove line 26 from page 2.

3:40 p.m. Senator Cory seconded.

3:41 p.m. Voice Vote - Motion Passed.

3:41 p.m. Senator Castaneda moved a Do Pass as amended.

3:41 p.m. Senator Myrdal seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

3:41 p.m. Senator Castaneda will carry the bill.

3:41 p.m. Chair Larson closed the hearing.

*Kendra McCann, Committee Clerk*

March 26, 2025

CO  
3/26/25  
lofy

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.

**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



- 1 c. Information maintained by court personnel pertaining to the administration of the  
2 court or clerk of court office and not associated with a particular case.
- 3 ~~2-3.~~ "Criminal justice agency" has the same meaning as in section 12-60-16.1.
- 4 ~~4.~~ "Criminal record" means court and prosecution records subject to sealing under this  
5 chapter. A criminal record does not include criminal history record information as  
6 defined in subsection 5 of section 12-60-16.1 or criminal justice data information  
7 maintained in the criminal justice data information sharing system under section  
8 54-12-34.
- 9 ~~3-5.~~ "Prosecutor" means the office or agency with jurisdiction over the offense for purposes  
10 of postconviction proceedings.
- 11 ~~4-6.~~ "Nonconviction" means dismissal of all criminal charges in a case or acquittal of all  
12 criminal charges in a case.
- 13 ~~7.~~ "Seal" means to prohibit the disclosure of the existence or contents of court or  
14 prosecution records unless authorized by court order.

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

17 **12-60.1-02. Grounds to file petition to seal criminal record.**

- 18 1. An individual may file a petition to seal a criminal record if:
- 19 a. The individual pled guilty to or was found guilty of a misdemeanor offense and  
20 the individual has not been convicted of a new crime for at least three years  
21 before filing the petition; ~~or~~
- 22 b. The individual pled guilty to or was found guilty of a felony offense and the  
23 individual has not been convicted of a new crime for at least five years before  
24 filing the petition; or
- 25 c. The individual was granted an unconditional pardon of the criminal conviction by  
26 the governor.
- 27 2. ~~This~~ Except as provided under section 23 of this Act, this chapter does not apply to:
- 28 a. A felony offense involving violence or intimidation during the period in which the  
29 offender is ineligible to possess a firearm under subdivision a of subsection 1 of  
30 section 62.1-02-01; or



3049

- 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.



40f9

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

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1166**

**Judiciary Committee (Sen. Larson, Chairman)** recommends **AMENDMENTS** [\(25.0400.04004\)](#) and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1166 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0400.04003  
Title.

Prepared by the Legislative Council  
staff for Senator Castaneda  
March 26, 2025

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.