



North Dakota Legislative Council

Prepared for the Judiciary Committee
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EXPANDING CRIMINAL RECORD SEALING

Section 6 of House Bill No. 1549 (2025) ([appendix](#)) directs the Legislative Management to study expanding access to criminal record sealing. The study must include the automation of record sealing for individuals eligible for record sealing, the expansion of eligibility for record sealing, and the potential costs and benefits of creating processes for criminal record expungement alongside, or in lieu of, avenues for criminal record sealing.

NORTH DAKOTA LAW

North Dakota Century Code Section 12-60.1-02 provides an individual may file a petition to seal a criminal record if:

- 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 3 years before filing the petition;
- 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 5 years before filing the petition; or
- The individual was granted an unconditional pardon of the criminal conviction by the Governor.

An individual may not file a petition to seal a criminal record for a felony offense involving violence or intimidation during the 10 years in which the offender is ineligible to possess a firearm or for an offense for which an offender has been ordered to register as an offender against children or a sexual offender.

Filing a Petition

Section 12-60.1-03 provides a petition to seal a criminal record must be filed in the existing criminal case for the offense. A petition must include the petitioner's full name and address, the reason why the petition should be granted, the petitioner's criminal history in the state and any other state, federal court, and foreign country, including prior and pending criminal charges, charges for which an imposition of sentence has been deferred or stayed, and all prior requests by the petitioner for a pardon, return of arrest records, expungement, or sealing of a criminal record, whether granted or not. The petitioner shall file a proposed order when filing a petition to seal a criminal record and must provide service to the prosecuting official.

Court Review

Section 12-60.1-04 provides the court may grant a petition to seal a criminal record if the court determines by clear and convincing evidence:

- The petitioner has shown good cause for granting the petition;
- The benefits to the petitioner outweigh the presumption of openness of the criminal record;
- The petitioner has completed all terms of imprisonment and probation for the offense;
- The petitioner has paid all restitution ordered by the court for commission of the offense;
- The petitioner has demonstrated reformation warranting relief; and
- The petition complies with all requirements under Chapter 12-60.1.

In determining whether to grant a petition, the court is required to consider the nature and severity of the underlying crime that would be sealed; the risk posed by the petitioner to society; the length of time since the petitioner committed the offense; the petitioner's rehabilitation since the offense; aggravating or mitigating factors relating to the underlying crime; the petitioner's criminal record, employment history, and community involvement; the recommendations of law enforcement, prosecutors, corrections officials, and those familiar with the petitioner and the offense; and the recommendations of victims of the offense.

OTHER STATE LAWS

North Dakota is among 26 states that require an individual to file a petition for purposes of criminal record clearing. State lawmakers across the country, however, are increasingly interested in statutory provisions that automatically clear a person's criminal record. While many states have laws allowing record relief, these laws still require the individual to petition the court and pay a fee for clearing a criminal history. Making this process automatic would remove the need for a petition and often is done free of charge.

Twenty-six states and Puerto Rico have at least one statutory automatic record clearing provision. California, Colorado, Connecticut, Delaware, Louisiana, Michigan, Minnesota, New Jersey, New York, Oklahoma, Pennsylvania, Utah, Virginia, and Washington, D.C., have enacted legislation that automates the automatic record clearing process, sometimes known as "clean slate laws." These laws allow for the automatic and automated expungement of a criminal record provided there have been no intervening convictions for a specified period prior to sealing the misdemeanor or felony conviction.

California

California permits automatic relief for most misdemeanors and nonviolent felonies. Records become eligible for sealing 4 years after the completion of a sentence. The law is part of California's broader effort to expand relief for individuals who have completed their sentences and remained crime-free.

Statute: Cal. Penal Code § 1203.425

Colorado

Colorado's clean slate law allows sealing of arrests, misdemeanors, and certain nonviolent felonies. The waiting period ranges from 4 to 10 years, depending on the type of offense. Colorado was among the first wave of clean slate adopters, prioritizing fast relief for low-level cases.

Statute: CRS §§ 13-3-117 and 24-72-703

Connecticut

Connecticut automatically seals misdemeanors, Class D and E felonies, and certain unclassified felonies with sentences of 5 years or less. The waiting period is 7 years for misdemeanors and 10 years for felonies. Connecticut's 2021 clean slate law was one of the most expansive in New England.

Statute: Conn. Gen. Stat. §§ 54-142a, 54-142c, 54-142e, 54-142t

Delaware

Delaware's law provides for automatic sealing of certain misdemeanors and nonviolent felonies, as well as arrests not resulting in conviction. The waiting period is 3 to 7 years for misdemeanors and 10 years for felonies. Delaware emphasizes clearance of nonconviction records to reduce collateral consequences.

Statute: 11 Del. Code §§ 4372, 4373, 4373A

Louisiana

Louisiana enacted a clean slate law requiring automatic expungement of certain eligible misdemeanors and nonviolent felonies. The program began on January 1, 2025. The law mandates the creation of an automated process, removes filing fees, and expands access to relief. Louisiana is the first Southern state to adopt full clean slate automation.

Statute: La. Code Crim. Proc. art. 985.2 (2024)

Michigan

Michigan allows for sealing of most misdemeanors and nonviolent felonies, with limits of four misdemeanors and two nonviolent felonies per lifetime. Waiting periods are 7 years for misdemeanors and 10 years for felonies. Michigan's 2020 Clean Slate Act, effective in 2023, is one of the broadest in the nation.

Statute: MCL § 780.621g

Minnesota

Minnesota automatically seals petty and gross misdemeanors as well as certain nonviolent felonies. Records are cleared 2 years after a misdemeanor and 3 to 5 years after a felony, depending on severity. Minnesota's program prioritizes speed for minor offenses while still addressing low-level felonies.

Statute: Minn. Stat. § 609A.01

New Jersey

New Jersey provides automatic sealing for most nonviolent offenses. Major felonies and sex offenses are excluded. The waiting period is 5 years for misdemeanors and 10 years for felonies. New Jersey's law was one of the earliest comprehensive clean slate systems.

Statute: N.J.S.A. §§ 2C:52-1 and 2C:52-5.4

New York

New York's Clean Slate Act, effective November 16, 2024, provides automatic sealing of most misdemeanors and Class D and E felonies, excluding Class A felonies, violent felonies, and sex offenses. Individuals may seal up to two convictions in a lifetime and one felony. Waiting periods are 3 years for misdemeanors and 8 years for felonies.

Statute: CPL § 160.57

Oklahoma

Oklahoma's clean slate law allows automatic sealing of misdemeanor convictions and one nonviolent felony. The waiting period is 5 to 10 years after the completion of a sentence. Oklahoma is more restrictive than most states, limiting individuals to sealing one felony.

Statute: 22 Okl. St. §§ 18 and 19

Pennsylvania

Pennsylvania was the first state to enact a clean slate law in 2018. It allows automatic sealing of misdemeanors, summary offenses, and select second-degree felonies. The waiting period is 5 years for summary offenses, 7 years for misdemeanors, and 10 years for felonies. Pennsylvania's system has served as a national model.

Statute: 18 Pa.C.S. § 9122.2

Utah

Utah provides tiered waiting periods depending on offense severity. Records can be sealed 5 years after infractions and low-level misdemeanors, 5 years for Class C misdemeanors, 6 years for Class B misdemeanors, and 7 years for Class A misdemeanors.

Statute: Utah Code § 77-40a-205

Virginia

Virginia permits sealing of most misdemeanors including cannabis-related records. The waiting period is 7 years for misdemeanors. Virginia's law was amended in February 2025 to include probation violations and will be delayed until July 1, 2026, due to setup requirements including extensive computer systems for the Virginia State Police and court system.

Statute: Va. Code § 19.2-392.2

Washington, D.C.

Washington, D.C., passed one of the nation's broadest clean slate laws. Certain decriminalized, legalized, or unconstitutional offenses are automatically expunged, while other misdemeanors and felonies are automatically sealed after waiting periods. Full implementation is rolling out in stages, with major provisions set for 2027.

Statute: Second Chance Amendment Act of 2022 (D.C. Law 24-284)

NOTABLE CRIMINAL RECORD SEALING LEGISLATION

House Bill No. 1256 (2019) authorized an individual to petition the court to seal a criminal record if the individual pled guilty to or was found guilty of a misdemeanor offense and the individual had not been charged with a new crime for at least 3 years from the date of release from incarceration, parole, or probation or the individual pled guilty to or was found guilty of a felony offense and the individual had not been charged with a new crime for at least 5 years from the date of release from incarceration, parole, or probation. The bill also provided an individual may not petition the court to seal a record relating to felony offenses involving violence or intimidation during the period in which the offender is ineligible to possess a firearm or an offense for which an offender has been ordered to register under Section 12.1-32-15.

House Bill No. 1196 (2021) clarified the requirements relating to a petition to seal a criminal record to indicate a subsequent conviction within a period of time before filing a petition is the threshold rather than an additional criminal charge from the date of release from incarceration, parole, or probation. The bill also required a court to provide the reasoning for denying a petition to seal a criminal record.

House Bill No. 1263 (2025) allows a district court decision to deny a petition to seal a criminal record to be appealed. The bill also shortens the waiting period to file an additional petition to seal a criminal record after being denied by the district court from 3 years to 1 year following the denial.

House Bill No. 1166 (2025) requires a court record to be closed upon the expiration of 61 days if the court enters an order of nonconviction.

SUGGESTED STUDY APPROACH

In conducting the study, the committee may want to receive testimony from the North Dakota Supreme Court, judges, law enforcement, defense attorneys, state's attorneys, and the Department of Corrections and Rehabilitation regarding expanding access to criminal record sealing, including the automation of record sealing for individuals eligible to file a petition to seal a criminal record, and the potential costs and benefits of creating processes for criminal record expungement alongside, or in lieu of, avenues for criminal record sealing.

ATTACH:1