

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1196
(Representatives Roers Jones, Heinert, Ista, Keiser, Mock, O'Brien)
(Senator Dwyer)

AN ACT to amend and reenact sections 12-60.1-01 and 12-60.1-02 and subsection 8 of section 12-60.1-04 of the North Dakota Century Code, relating to sealing criminal records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12-60.1-01. Definitions.

As used in this chapter:

1. "Court record" includes:
 - a. Any document or information collected, received, or maintained by court personnel in connection with a judicial proceeding;
 - b. Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by court personnel relating to a judicial proceeding; 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. "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. ~~"Employee" has the same meaning as in section 14-02.4-02.~~
4. ~~"Employer" has the same meaning as in section 14-02.4-02.~~
5. "Prosecutor" means the office or agency with jurisdiction over the offense for purposes of postconviction proceedings.
- 6.4. "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 ~~charged with~~convicted of a new crime for at least three years ~~from the date of release from incarceration, parole, or probation 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 ~~charged with convicted of~~ a new crime for at least five years ~~from the date of release from incarceration, parole, or probation~~ before filing the petition.
2. 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. AMENDMENT. Subsection 8 of section 12-60.1-04 of the North Dakota Century Code is amended and reenacted as follows:

- 8. Except as provided in this section and if good cause is shown, if a petition is denied an individual a district court denying a petition may not file prohibit a petitioner from filing a subsequent petition to seal a criminal record for at least up to three years following the denial. The order denying the petition must provide the reasons establishing good cause for prohibiting the petition.

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 Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1196.

House Vote: Yeas 90 Nays 4 Absent 0

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State