

HOUSE BILL NO. 1196

Introduced by

Representatives Roers Jones, Heinert, Ista, Keiser, Mock, O'Brien

Senator Dwyer

1 A BILL for an Act to amend and reenact sections 12-60.1-01 and 12-60.1-02 and subsection 8
2 of section 12-60.1-04 of the North Dakota Century Code, relating to sealing criminal records.

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

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

6 **12-60.1-01. Definitions.**

7 As used in this chapter:

8 1. "Court record" includes:

- 9 a. Any document or information collected, received, or maintained by court
10 personnel in connection with a judicial proceeding;
- 11 b. Any index, calendar, docket, register of actions, official record of the proceedings,
12 order, decree, judgment, minute, and any information in a case management
13 system created or prepared by court personnel relating to a judicial proceeding;
14 and
- 15 c. Information maintained by court personnel pertaining to the administration of the
16 court or clerk of court office and not associated with a particular case.

17 2. "Criminal record" means court and prosecution records subject to sealing under this
18 chapter. A criminal record does not include criminal history record information as
19 defined in subsection 5 of section 12-60-16.1 or criminal justice data information
20 maintained in the criminal justice data information sharing system under section
21 54-12-34.

22 3. ~~"Employee" has the same meaning as in section 14-02.4-02.~~

23 4. ~~"Employer" has the same meaning as in section 14-02.4-02.~~

1 5. "Prosecutor" means the office or agency with jurisdiction over the offense for purposes
2 of postconviction proceedings.

3 ~~6.4.~~ "Seal" means to prohibit the disclosure of the existence or contents of court or
4 prosecution records unless authorized by court order.

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

7 **12-60.1-02. Grounds to file petition to seal criminal record.**

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

9 a. The individual pled guilty to or was found guilty of a misdemeanor offense and
10 the individual has not been ~~charged with~~convicted of a new crime for at least
11 three years ~~from the date of release from incarceration, parole, or probation~~
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 ~~charged with~~convicted of a new crime for at least five
15 years ~~from the date of release from incarceration, parole, or probation~~before filing
16 the petition.

17 2. This chapter does not apply to:

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

21 b. An offense for which an offender has been ordered to register under section
22 12.1-32-15.

23 **SECTION 3. AMENDMENT.** Subsection 8 of section 12-60.1-04 of the North Dakota
24 Century Code is amended and reenacted as follows:

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