



EXPUNGEMENT OF INVOLUNTARY COMMITMENT RECORDS

A Research Guide for a North Dakota Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota courts.

The information provided in this research guide is intended as a starting point for your research into expungement of North Dakota involuntary commitment court records. The information provided in this research guide isn't intended for legal advice and can't replace the advice of competent legal counsel licensed in the state.

The self-represented individual must make all decisions about how to proceed.

References to non-ND Legal Self Help Center resources are included for your convenience only. Including these references doesn't mean the ND Legal Self Help Center endorses, warrants, or accepts responsibility for the content or uses of the resource. **Use at your own risk.**

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NO FORMS AVAILABLE

The North Dakota Legal Self Help Center and the North Dakota Court System **don't** have forms or instructions available for asking a North Dakota state district court to expunge commitment court records for cases brought under [North Dakota Century Code Chapter 25-03.1](#).

All cases brought under [North Dakota Century Code Chapter 25-03.1](#) are confidential and can't be viewed by the public. The Center can't provide any examples of legal documents to expunge court records that were filed in Chapter 25-03.1 court cases.

If you represent yourself, you'll need to create your own legal documents, or retain a lawyer to do so.

The basic steps in the motion process to ask a North Dakota state district court to expunge involuntary commitment court records start on Page 6. The steps include the names and general descriptions of many of the legal documents you'll need to create and prepare.

If you're interested in finding an attorney to represent you, go to Page 7 for all of the attorney resources available through the ND Legal Self Help Center.

SECTION ONE: OVERVIEW OF EXPUNGEMENT OF INVOLUNTARY COMMITMENT COURT RECORDS

What is expungement of involuntary commitment court records?

In general, expungement of involuntary commitment court records is deletion and destruction of all court record information.

In North Dakota, an individual who was the respondent in a petition for involuntary commitment under [North Dakota Century Code Chapter 25-03.1](#) may ask the North Dakota State District Court to expunge the court records as follows:

[25-03.1-45 Expungement of records.](#)

Following the discharge of a respondent from a treatment facility or the state hospital or the issuance of a court order denying a petition for commitment, a respondent may at any time move to have all court records pertaining to the proceedings expunged on condition that the respondent file a full release of all claims of whatever nature arising out of the proceedings.

What records can be expunged?

[North Dakota Century Code Section 25-03.1-45](#) specifically states “all court records pertaining to the proceedings” may be expunged.

The North Dakota court system maintains records of documents and evidence that were filed with the court during the involuntary commitment case. The North Dakota court system also maintains records generated during hearings or trials that occurred during the involuntary commitment case.

When can a Respondent ask the North Dakota State District Court to expunge their involuntary commitment court records?

The Respondent is the individual who the North Dakota State District Court was asked to involuntarily commit to a treatment facility or the state hospital.

A Respondent in a [North Dakota Century Code Chapter 25-03.1](#) involuntary commitment case may file a motion to expunge the court records if:

1. The Respondent has been discharged from a treatment facility or the state hospital; OR
2. The District Court Judge issued a court order denying the petition for commitment.

Are there any other conditions a Respondent must meet to expunge their involuntary commitment court records?

Yes, when the Respondent makes a request to expunge their involuntary commitment court records, they must also file a full release of all claims of whatever nature arising out of the involuntary commitment case proceedings.

How does a Respondent make the request to expunge their involuntary commitment court records?

The request is made with a written motion in the existing involuntary commitment case the Respondent wishes to expunge.

See Page 6 for the basic process of making a motion.

No forms or instructions are available through the North Dakota Legal Self Help Center or the North Dakota Court System for making a motion to expunge involuntary commitment court records.

If you represent yourself, you'll need to create your own motion documents. You may also retain an attorney to create the motion documents for you.

Can examples of expungement motion documents from other involuntary commitment cases be provided upon request?

No. All North Dakota Century Code Chapter 25-03.1 cases are confidential. Information about the existence of these cases and the court records filed in these cases AREN'T available to the public.

The North Dakota Legal Self Help Center can't provide examples of documents filed in confidential cases.

Where is a motion to expunge involuntary commitment court records filed?

The written motion and the written full release of all claims are filed in the involuntary commitment case containing the court records the Respondent wants expunged.

If the Respondent has a copy of the involuntary commitment order, or the order denying involuntary commitment, the case number and county are listed on the first page.

Contact information for Clerks of District Court by North Dakota county is available at ndcourts.gov/court-locations.

SECTION TWO: LEGAL RESEARCH FOR EXPUNGEMENT OF INVOLUNTARY COMMITMENT COURT RECORDS

NORTH DAKOTA STATUTES

*(North Dakota statutes are found in the North Dakota Century Code (NDCC). The North Dakota Century Code contains the laws enacted by North Dakota Legislature. The NDCC is available at legis.nd.gov/general-information/north-dakota-century-code. **These aren't the full chapters and sections contained in the NDCC, please follow the links to view the laws in full.**)*

Chapter 25-03.1 Commitment Procedures. legis.nd.gov/cencode/t25c03-1.pdf

- See Section 25-03.1-02: Definitions.
- See Section 25-03.1-18: Involuntary treatment – Release.
- See Section 25-03.1-30: Discharge of hospitalized patient – Transfer to alternative treatment – Termination of alternative treatment.
- See Section 25-03.1-45: Expungement of records.

Chapter 23-49 Hospital Discharge Policies. legis.nd.gov/cencode/t23c49.pdf

- See Section 23-49-01: Definitions.

NORTH DAKOTA CASE LAW

(When the decision of a case is appealed from a North Dakota District Court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.)

Review the North Dakota Supreme Court opinions related to expungement. One way to research case law, is to use the print version of the North Dakota Century Code to find the short summaries of case law after each Section of the Century Code.

The case law summaries are located directly following the text of the Century Code Section. To view the full text of the opinion, go to ndcourts.gov and click on “Supreme Court Opinions.” Enter the case name or case citation.

Another way to research case law is to search by topic at ndcourts.gov and click on “Supreme Court Opinions.” Use the “Topic” drop down list to narrow your search by topic.

NORTH DAKOTA COURT RULES

(Court rules govern how a dispute makes its way to court and how the dispute is conducted. All of the court rules are found online at ndcourts.gov/legal-resources/rules.)

Rule 41 of the North Dakota Rules of Administrative Procedure: Access to Court Records.

ndcourts.gov/legal-resources/rules/ndsupctadminr/41

Rule 3.2 of the North Dakota Rules of Court: Motions. [ndcourts.gov/legal-](https://ndcourts.gov/legal-resources/rules/ndrct/3-2)

[resources/rules/ndrct/3-2](https://ndcourts.gov/legal-resources/rules/ndrct/3-2)

Rule 6 of the North Dakota Rules of Civil Procedure: Computing and Extending Time; Time for Motion Papers. ndcourts.gov/legal-resources/rules/ndrcivp/6

LAWS CONSTANTLY CHANGE

Laws constantly change through legislation, administrative rules and rulings, and court decisions.

To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code and North Dakota court rules are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

LIBRARY RESOURCES (Not all legal resources are available online.)

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. (polaris.odinlibrary.org)

If the book is available for interlibrary loan through ODIN, ask the librarian or library staff of your local North Dakota library how to request the book.

Following are library resources that may be of interest to you:

[A Short & Happy Guide to Civil Procedure](#), Richard D. Freer, West Academic Publishing, 2019.

Represent Yourself in Court: How to Prepare & Try a Winning Case, Paul Bergman, Sara Berman, NOLO, 2016.

North Dakota Century Code Annotated, Lexis Nexis, Creation Date c1959 – present.

North Dakota Court Rules Annotated, Lexis Nexis, Creation Date c1990 – present.

North Western Reporter 2nd Series, Thomson Reuters, Creation Date c1941 – present.

OTHER LEGAL RESEARCH RESOURCES

How to Research a Legal Problem: A Guide for Non-Lawyers, American Association of Law Libraries. (aallnet.org)

SECTION THREE: BASIC COURT PROCESS FOR EXPUNGING INVOLUNTARY COMMITMENT COURT RECORDS

When asking the court for an order to expunge involuntary commitment court records, it's done in writing in the form of a motion.

For information about making a motion: ndcourts.gov/legal-self-help/making-a-motion.

Documents to Make a Motion to Expunge Involuntary Commitment Court Records:

- Notice of motion
 - A required written notice that tells all parties in the involuntary commitment case that a request for an order will be made to the court.
- Motion
 - A required short, written request to the court for an order expunging the court records in the involuntary commitment case.
- Brief in support of motion
 - A required written explanation of why the court should grant the request. A brief takes the specific rules and laws that support the request and explains how they apply to the facts of the particular situation. Facts referred to in the brief must also appear in the affidavit.
- Affidavit to support the motion
 - A written statement of the facts referred to in the brief.
- A written, full release of all claims of whatever nature arising out of the involuntary commitment case proceedings
- Other supporting documents (other affidavits, exhibits, etc.)
- Proof of service of the motion documents on the other parties.

The North Dakota Legal Self Help Center DOESN'T have forms or instructions available for motioning the court to expunge involuntary commitment court records.

You'll need to create your own legal documents, or retain an attorney to do so.

The following General-Use template forms are available at ndcourts.gov/legal-self-help/general-use-forms. You may find the General-Use template forms useful as a starting point for creating your own legal documents.

- Making a Motion - Checklist
- Notice of Motion form
- Motion form
- Brief in Support of Motion form
- Affidavit form
- Caption and Signature form

The Guide to a Civil Action is available at [Guide to a District Court Civil Action](#).

If you would like assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota. Ask the lawyer about limited legal representation.

SECTION FOUR: ATTORNEY RESOURCES AND LIMITED LEGAL REPRESENTATION

You're not required to hire an attorney to access the state court system. If you decide to represent yourself, you must follow all of the rules, laws and procedures that an attorney is required to follow.

For more information about finding an attorney, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

Attorney Resources

If you decide to find an attorney to represent you, you may find the following options of interest.

- Legal Services of North Dakota is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is legalassist.org.

- The State Bar Association provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Attorneys licensed to practice in North Dakota may provide Limited Legal Representation in civil actions.

Limited Legal Representation (sometimes called “unbundling”) is a way that an attorney can help you with part of your case while you do the rest of your case. You pay for the part of the case the attorney handled.

For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your paperwork, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make the court appearance for you.

You and the attorney must agree in writing to Limited Legal Representation.