



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 state courts.

The information provided in this research guide isn't a complete statement of the law. This information 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 a lawyer 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.**

Section One. Overview of Expungement of Involuntary Commitment Records (Page 2)

Section Two. Legal Research for Expungement of Involuntary Commitment Records (Page 4)

Section Three. Basic Court Process Information (Page 6)

Section Four. Attorney Resources (Page 7)

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, 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 need to create and prepare.

If you're interested in finding a lawyer to represent you, go to Page 7 for all of the lawyer 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.

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.

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 were held during the involuntary commitment case.

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

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 wants 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 need to create your own motion documents. You may also retain a lawyer to create the motion documents for you.

Can examples of expungement motion documents from other involuntary commitment cases be provided by the Court System?

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 and the North Dakota Court System 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 and signed by the Governor.).

[Chapter 25-03.1](#): Commitment Procedures.

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

[Chapter 23-49](#): Hospital Discharge Policies.

- [Section 23-49-01](#): Definitions.

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.)

[Rule 41 of the North Dakota Rules of Administrative Procedure](#): Access to Court Records.

[Rule 3.2 of the North Dakota Rules of Court](#): Motions.

[Rule 6 of the North Dakota Rules of Civil Procedure](#): Computing and Extending Time; Time for Motion Papers.

North Dakota Case Law

(When the decision of a case is appealed from a North Dakota state 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.

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

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

To determine how a law or rule applies to your situation, review the applicable law or laws, court rules, administrative rules, and court decisions.

Only a lawyer licensed to practice in North Dakota who agrees 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](http://aallnet.org), 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.

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 Declaration.
- Declaration, or 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 Declarations, 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 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 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](#)
- [Declaration form](#)
- [Affidavit form](#)
- [Caption and Signature form](#)

For more information about civil actions, go to [Guide to a District Court Civil Action](#).

If you need help creating your legal documents, consult a [lawyer](#) licensed to practice in North Dakota. Ask the lawyer about limited legal representation.

Section Four: Lawyer Resources And Limited Legal Representation

You aren't required to hire a lawyer to access the state court system. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

Lawyer Resources

For information about finding a lawyer to represent you, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

- **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.
- **Dakota Plains Legal Services** is a non-profit legal services organization that provides free legal assistance to low-income individuals, older Americans and veterans. Dakota Plains Legal Services (DPLS) has eight offices and serves communities across South Dakota and North Dakota, including nine tribal nations. DPLS is committed to increasing access to justice with quality legal assistance. Contact information is available on the DPLS webpage of dpls.org.
- **The State Bar Association of North Dakota** 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.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil cases. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer 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 lawyer handled.

For example:

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

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

North Dakota Free Legal Answers

This civil legal program is a partnership of the American Bar Association and the State Bar Association of North Dakota.

The purpose of the program is to provide free answers to **specific** civil legal question to low-moderate income North Dakotans who submit their questions online. Anonymous volunteer lawyers answer your question, but can’t represent you.

Go to nd.freelegalanswers.org for information about the program, the online application, and, if you qualify, ask your civil legal question.

Please note that this program **doesn’t** provide any assistance with criminal legal questions.