



Sealing DUI Records ([N.D.C.C. Section 39-08-01.6](#))

A Research Guide for a North Dakota State 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 sealing North Dakota DUI records under Section 39-08-01.6 of the North Dakota Century Code. The information provided in this research guide **isn't** intended for legal advice and **can't** replace the advice of a lawyer licensed to practice law in North Dakota.

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.**

Important! The existing DUI case you want to seal **must** be either a North Dakota municipal court case or a North Dakota state district court case.

No Assistance with Court Processes in Criminal Cases

The ND Legal Self Help Center can provide information about the court process in **civil** cases in North Dakota state courts to people who represent themselves.

The ND Legal Self Help Center **can't** provide assistance with court process in **criminal cases** and **doesn't** have forms, procedures, or expertise available in this area.

If you represent yourself, you need to conduct your own legal research, determine the appropriate procedures, and create your own legal documents. You may also retain a lawyer to help you with all or part of your legal representation.

Caution! When you represent yourself, you're held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

Overview of Sealing North Dakota DUI Records

Who can have their DUI records sealed?

Under [Section 39-08-01.6 of the North Dakota Century Code \(N.D.C.C.\)](#) you may ask a North Dakota municipal or state court to seal your DUI records when:

1. You've pled guilty or nolo contendere to (*nolo contendere means you're not contesting*), or have been found guilty of a violation under [N.D.C.C. Section 39-08-01](#) or an equivalent municipal ordinance; **And**
2. You haven't pled guilty or nolo contendere to, or haven't been found guilty of:
 - A subsequent violation of N.D.C.C. Section 39-08-01 or an equivalent municipal ordinance, **or**
 - **Any other criminal offense**within **seven years** of the first violation under N.D.C.C. Section 39-08-01 or an equivalent municipal ordinance.

Can I ask to have my DUI record sealed if I have a commercial driver's license?

No, under N.D.C.C. Section 39-08-01.6(2), you can't have your DUI record sealed if you're an individual licensed as a commercial driver under [N.D.C.C. Section 39-06.2-10](#).

Can I have my DUI records sealed under N.D.C.C. Chapter 12-60.1?

No, DUI records **can't** be sealed using the [N.D.C.C. Chapter 12-60.1](#) process.

If I didn't get another DUI within seven years **but did get another criminal conviction**, can I still ask the court to seal my DUI record?

No, under N.D.C.C. Section 39-08-01.6(1)(b), you can't be found guilty of a later DUI violation or an equivalent municipal ordinance, **Or Any Other criminal offense** within seven years of the first DUI violation.

Is sealing DUI records the same as expunging DUI records?

No, in general, expungement of records is deletion and destruction of all record information. Sealing records doesn't delete or destroy the records, so access may be possible in limited situations. Often, access to sealed records requires a court order.

In North Dakota, expungement of DUI records isn't available.

See [the Expungement of Criminal Records research guide](#) for more information about the limited expungement options available in North Dakota.

Will a prosecutor still have access to my DUI record?

Yes, under N.D.C.C. Chapter 39-08-01.6(2), a prosecutor has access to a prior offense in your DUI record for purposes of enhancement under [N.D.C.C. Section 39-08-01\(3\)](#) or an equivalent municipal offense.

How do I ask to have my DUI record sealed?

At minimum, file a written petition in your DUI case showing you meet the requirements of [N.D.C.C. Section 39-08-01.6\(a\) and \(b\)](#). You should also include any documentation you believe proves what you state in your Petition.

For more information about the process of asking to have your DUI record sealed, contact the Clerk of Court of [Municipal Court](#) or [District Court](#) where your case is filed.

Where do I file my Petition to seal my DUI record?

File your Petition and any accompanying documents in your DUI case with the Clerk of Court of [Municipal Court](#) or [District Court](#) where your DUI case is filed.

Is a hearing required?

No, a hearing isn't required. However, the judge may decide to have a hearing.

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Sealing DUI Records Legal Research Resources

Following are legal research resources to get you started in your research into the requirements of sealing North Dakota DUI records under [Section 39-08-01.6 of the North Dakota Century Code \(N.D.C.C.\)](#).

Municipal Ordinances:

An ordinance is a law passed by a municipal government, such as a city or county.

Some municipal governments make their ordinances available on their government websites. If you're unable to locate the ordinance online, contact the municipal government directly.

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 12.1-32: Penalties and Sentencing](#)

- See Sections [12.1-32-07.1](#) and [12.1-32.07.2](#) for the court process for sealing criminal records.

[Chapter 39-06.2: Commercial Driver's License](#)

- See Section [39-06.2-10](#) for disqualification and cancellation and a prosecutor's access to prior offenses for purposes of enhancement.

[Chapter 39-08: Regulations Governing Operators](#)

- See Section [39-08-01\(3\)](#) for sentencing of DUI offenses.
- See Section [39-08-01.6](#) for the requirements for sealing DUI records.

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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 minimum, review the following:

- [North Dakota Rules of Criminal Procedure](#)
- [North Dakota Rules of Court](#)
- [North Dakota Rules of Evidence](#)

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.)

One way to research case law related to sealing DUI records is to use the print version of the North Dakota Century Code to locate the short summaries of case law after each Section. Case law summaries are located directly after the text of the Century Code Section. To view the full text of the opinion, go to ndcourts.gov, click on “Supreme Court Opinions” and enter the case name.

You may also research case law by topic at ndcourts.gov. Click on “Supreme Court Opinions”. Use the “Topic” dropdown 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 a selection of library resources on ODIN that may be of interest to you:

A Short & Happy Guide to Evidence, Sydney Beckman, West Academic Publishing, 2018.

Courtroom Evidence Handbook: 2018-2019 Student Edition, Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.

The Criminal Law Handbook: Know Your Rights, Survive the System, Paul Bergman, Sara Berman, NOLO, 2018.

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.

Other Legal Research Resources:

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

Attorney Resources

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 a lawyer is required to follow.

If you decide to find a lawyer to represent you, you may find the following options of interest.

- **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, the address is P.O. Box 2136, Bismarck, ND 58502-2136, 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.