

NORTH DAKOTA

North Dakota law does not explicitly distinguish between a conviction and an adjudication. However, a distinction is implied throughout all North Dakota law in its application to juveniles and adults respectively. *See, e.g.*, N.D. CENT. CODE § 27-20-51.

Juvenile Record Contents

Juvenile records include all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court, which are kept by any agency except the Attorney General and the directors of the Department of Transportation, the Department of Human Services, the Department of Corrections and Rehabilitation, law enforcement agencies, and county social service agencies. N.D. CENT. CODE § 27-20-54.

The guidelines for automatic destruction of juvenile records includes all petitions, summons, findings of fact, orders, documents related to service, court-related notices, motions, affidavits, evaluations, and reports so entered by the court. N.D. Sup. Ct. Admin. R. 19.

Confidentiality of Law Enforcement Records

Law enforcement and correctional facility records and files of a child alleged or adjudicated delinquent are not accessible to the public. N.D. CENT. CODE § 27-20-52.

Exceptions (N.D. CENT. CODE § 27-20-52):

- An institution or agency to which the child is or may be committed
- Court personnel
- Superintendent or principal of the school in which the child is enrolled or wishes to enroll
- Parole board
- Pardon advisory board
- The governor
- Staff of the Uniform Crime Victims Compensation Program
- Child's attorney

Confidentiality of Court Records

Juvenile court records are closed to the public. N.D. CENT. CODE § 27-20-51.

Exceptions (N.D. CENT. CODE § 27-20-51):

- Court personnel
- The juvenile's school principal, chief administrative officer, or school guidance counselor, who may view the disposition order if the juvenile has been adjudicated delinquent for an offense that would be a felony if committed by an adult. Any other juvenile court records may be viewed by the superintendent or principal of the child's school or a school in which the child wishes to enroll if the child appears to present a danger to himself, the students, or staff of the school.
- Staff of the Uniform Crime Victims Compensation Program
- Division of Children and Family Services
- Department of Human Services
- Child's attorney
- Child
- Upon court order, when there is a showing in writing of a legitimate interest in a proceeding or in the work of the juvenile court

Exceptions to Confidentiality

Emergency circumstances: Law enforcement records may be released if the interests of national security require it. N.D. CENT. CODE § 27-20-52. The name and other identifying information of the child may be released in order to apprehend a juvenile who has escaped from a secure facility. N.D. CENT. CODE § 27-20-51.1.

Availability of Records Online or in Commercial Background Reports

Juvenile records are not publicly accessible online.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Sealing: N.D. CENT. CODE § 54-23.4-17(5)

Expungement: N.D. CENT. CODE § 27-20-54

Excluded Offenses

Juvenile case files and court records of certain sex offenses must be retained for fifty years and made available to any state's attorney for purposes of investigation or proceedings. N.D. CENT. CODE § 27-20-54(1).

Automatic (without application)

Juvenile records are automatically sealed when the juvenile proceedings conclude. N.D. CENT. CODE § 54-23.4-17(5). After being sealed, records are destroyed at a specified time depending on the adjudication. *See* N.D. CENT. CODE § 27-20-54(1) (authorizing the North Dakota Supreme Court to mandate juvenile record disposal guidelines).

Eligibility

Juvenile records are destroyed according to the following Records Retention Schedule:

Juvenile Delinquency (94) – 500419

When a juvenile is found to be delinquent, records will be disposed of by shredding 10 years after expiration of the final order, or when the juvenile turns 18, whichever is later.

Juvenile Unruly (95) – 500420

If a juvenile is found to be unruly, the records will be retained for 1 year after the juvenile finishes supervision.

Juvenile Sex Offense Files – 500439

This series contains case files or court records that describe acts that may constitute an offense under N.D. CENT. CODE §§ 12.1-20-03, 12.1-20-04, or 12.1-20-07. These records will be retained for 50 years from the date of disposition or action, and then will be destroyed by shredding.

Juvenile Special Proceedings (98) – 500440

Petitioned cases that are dismissed will be retained for 1 year after the expiration of the order, and then will be destroyed by shredding.

Juvenile Officer's Working File – 801206

This series contains all informal and formal documents, case notes, and reports.

This file will be retained until the child reaches age 18 or meets all conditions, whichever is later, except for documents governed by N.D. CENT. CODE § 25-03.3-04.

Juvenile Drug Court – Coordinator's and Juvenile Officer's Working File - 801207

This series contains all informal documents, case notes, and reports concerning a juvenile's participation in juvenile drug court.

This file will be retained for 2 years from graduation or termination from the juvenile drug court program or attainment of age 18, whichever is later, except for documents governed by N.D. CENT. CODE § 25-03.3-04. The file will be destroyed by shredding.

N.D. CENT. CODE § 27-20-54(1) (authorizing the North Dakota Supreme Court to mandate juvenile record disposal guidelines); *See also* N.D. Sup. Ct. Admin. R. 19. *See also In Interest of A.J.K.*, 582 N.W.2d 13 (N.D. Ct. App. 1998) (ordering the expungement of a juvenile record pursuant to N.D. CENT. CODE § 27-20-54 since the individual had turned 18).

Notification

None found.

Petition/Application

Expungement occurs automatically according to the Records Retention Schedule; there is no petition or application.

Hearing

No information found.

Court Process

Expungement occurs automatically according to the Records Retention Schedule.

Effect

Each clerk or judge who has jurisdiction over court records may dispose of them as designated in a records disposal report, which is provided by the State Court Administrator or the State Records Administrator. Non-confidential records may be disposed of by landfill, but confidential records must be shredded or burned. A record cannot be disposed of before the time set in the retention schedule, unless a clerk or judge petitions the State Court Administrator for early disposal of that record. N.D. Sup. Ct. Admin. R. 19.

Once a record is destroyed, it is treated as though it never existed. N.D. CENT. CODE § 27-20-54(2). The juvenile court must notify each agency named in the file or record of the destruction, and all index references, except those which may be made by the Attorney General and the directors of the Department of Transportation, the Department of Human Services, the Department of Corrections and Rehabilitation, law enforcement agencies, and county social service agencies, must be deleted. N.D. CENT. CODE § 27-20-54(2).

Fee

None found.

Consequences for Sharing Sealed/Expunged Information

None found.

Resources

NORTH DAKOTA SUPREME COURT, *Records Retention Schedule* (Feb. 1, 2014), <http://www.ndcourts.gov/court/rules/administrative/Ar19sch.htm>.