

HOUSE BILL NO. 1130

Introduced by

Representative Brandenburg

1 A BILL for an Act to amend and reenact section 12.1-31-01 of the North Dakota Century Code,
2 relating to the sealing of a criminal record.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-31-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-31-01. Disorderly conduct.**

7 1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or
8 alarm another person or in reckless disregard of the fact that another person is
9 harassed, annoyed, or alarmed by the individual's behavior, the individual:

- 10 a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
- 11 b. Makes unreasonable noise;
- 12 c. In a public place, uses abusive or obscene language, knowingly exposes that
13 individual's penis, vulva, or anus, or makes an obscene gesture;
- 14 d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
- 15 e. Persistently follows a person in or about a public place or places;
- 16 f. While loitering in a public place for the purpose of soliciting sexual contact, the
17 individual solicits the contact;
- 18 g. Creates a hazardous, physically offensive, or seriously alarming condition by any
19 act that serves no legitimate purpose;
- 20 h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or
21 gestures that are intended to adversely affect the safety, security, or privacy of
22 another person; or
- 23 i. Uses a fixed optical device that enhances or records a visual occurrence to view
24 through any window of another person's property; or uses a surveillance camera

1 to capture an image from the dwelling or accessory structure of another person;
2 however, an individual using a surveillance camera has seven days from notice
3 by a law enforcement officer to direct or shield the camera so as to not capture
4 an image from another person's dwelling or accessory structure before there is
5 an offense.

6 2. This section does not apply to constitutionally protected activity. If an individual claims
7 to have been engaged in a constitutionally protected activity, the court shall determine
8 the validity of the claim as a matter of law and, if found valid, shall exclude evidence of
9 the activity.

10 3. If an individual pleads guilty or is found guilty of a first offense under this section and a
11 judgment of guilty is entered, a court, upon motion, shall seal the court record of that
12 conviction if the person is not subsequently convicted within five years of an additional
13 offense under this section. Once sealed, the court record may not be opened even by
14 order of the court.