

Sealing Criminal Records in Nevada

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Avenues to a Clean Slate

- Decriminalization
- Record Sealing
- Vacatur

Statutes Implicated

- NRS 179.245 – sealing for eligible convictions
- NRS 179.247 – vacatur for eligible convictions
- NRS 179.255 – sealing for dismissed and declined cases, acquittals
- NRS 179.259 – sealing after completing re-entry program
- NRS 179.271 – sealing for de-criminalized offense
- NRS 179.285 – restoration of civil rights
- NRS 453.3365 – sealing of certain controlled substance offenses

NRS 179.271 – Decriminalized Offenses

- Written Request to the Court
- Court notifies prosecuting attorney who has 10 judicial days to object
- If no objection, Court must grant sealing
- If objection, Court must hold a hearing. Prosecuting attorney can present evidence to show no good cause to grant sealing.
- No fees may be charged by court or “agency of criminal justice.”

Record Sealing or Vacatur. What's the Difference?

Record Sealing

- The record is physically removed from a record system and the proceedings are deemed to have never occurred.

Vacatur

- The record is physically removed from a record system and proceedings deemed to have never occurred.

PLUS

- Judgment is vacated.
- Accusatory pleading is dismissed.

What's the Difference?

Record Sealing Statute

- Can be used by anyone

Vacatur Statute

- Can only be used by human trafficking and involuntary servitude victims

What's the Difference?

Record Sealing Statute

- Typical Candidates must meet the statutory waiting periods of staying out of trouble depending on the level of conviction
 - Between 1 and 10 years

Vacatur Statute

- Trafficking and Involuntary Servitude Survivors have NO STATUTORY WAITING PERIODS for qualifying offenses BUT must exercise “due diligence” once he/she has ceased being a victim of trafficking or involuntary servitude OR sought services for victims of trafficking or involuntary servitude.

Eligible Charges Record Sealing under "245"

- Everything except:
 - A crime against a child → defined in NRS 179D.0357
 - A sexual offense → includes 17 specific offenses
 - Invasion of the home with a deadly weapon pursuant to NRS 205.067;
 - Felony DUI/DWI → 3rd offense
 - DUI/DWI resulting in substantial bodily harm or death
 - Vehicular homicide resulting from DUI/DWI driving
 - Operating a Vessel Under the Influence → motorboat, vessel, water skis, surfboard
 - Operating a Vessel Under the Influence resulting in substantial bodily harm or death; Homicide by Vessel

Eligible Charges for Vacatur under “247”

- Prostitution or solicitation for prostitution, provided that the person was not alleged to be a customer of a prostitute
- Loitering for the purpose of solicitation or prostitution (local laws)
- Everything other than “a crime of violence”

“Crime of violence” means:

- (1) Any offense involving the use or threatened use of force or violence against the person or property of another; or
- (2) Any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

Top Reasons Petitions Are Denied

- Petitioner has not met statutory time periods.
- Petitioner's "current, verified records received from the Central Repository for Nevada Records of Criminal History" are not "current"
- Many judges maintain a judicial preference to have a prosecutor's stipulation to enable the rebuttable presumption.
- Prosecutors have "all-or-nothing" stipulation policies**

** Some prosecutors' offices have taken a trauma-informed approach and have stipulated to partial vacatur/sealing for trafficking victims.

Process



Costs

Typical Candidate

- Fingerprinting – \$15 - \$20
- Criminal History Report – \$27
- SCOPE – ~ \$15 per arresting agency
- Filing with Court – \$50 – \$270
- Costs of copies, mailing, and return mail

Trafficking Survivor

- Fingerprinting – \$15 - \$20 **
- Criminal History Report – \$0
- SCOPE – ~ \$15 per arresting agency **
- Filing with Court - \$50 – \$270 **
- Costs of copies, mailing, and return mail

** These should all be \$0 pursuant to NRS 179.245(9) passed last session.

Clean Slate Legal Assistance Project

- Nevada Legal Services
 - <https://nevadalegalservices.org/criminal-record-sealing/>
- Legal Aid Center of Southern Nevada
 - <https://www.lacsn.org/practice-areas/consumer-rights-project/record-sealing>

Questions?

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