

## **In Nevada, record sealing is not automatic.**

Although the Nevada Legislature established a public policy in favor of second chances<sup>1</sup>, there is currently no mechanism for automatically sealing eligible criminal records in Nevada. A person wishing to seal past criminal records must file a petition with the court.<sup>2</sup> The prosecuting agency and law enforcement involved will be notified of the petition and have the opportunity to object. In most cases, a rebuttable presumption in favor of sealing the records will apply.<sup>3</sup>

### **Waiting Periods under Nevada Law (NRS 179.245(1))**

- (a) Category A felony, a crime of violence pursuant to NRS 200.408 or residential burglary pursuant to NRS 205.060:  
**10 years from date or release from actual custody or discharge from parole or probation, whichever is later.**
- (b) Category B, C, or D felony  
**5 years from date or release from actual custody or discharge from parole or probation, whichever is later.**
- (c) Category E felony or Gross misdemeanor  
**2 years from date or release from actual custody or discharge from parole or probation, whichever is later.**
- (d) Any gross misdemeanor except subsection (e)  
**2 years from date or release from actual custody or discharge from parole or probation, whichever is later.**
- (e) Misdemeanor for a Battery that constitutes domestic violence under NRS 33.018, Driving Under the Influence under NRS 484C.110 or 484C.120, or Welfare Fraud under NRS 422.540, 422.550, 422.560, or 422.570  
**7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.**
- (f) Misdemeanor Battery (NRS 200.481), Misdemeanor Harassment (NRS 200.571), Misdemeanor Stalking (200.575), or Protection Order Violation

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<sup>1</sup> "...the policy of this State is to favor the giving of second chances to offenders who are rehabilitated and the sealing of records of such persons..." NRS 179.2405

<sup>2</sup> A person may **petition the court**, in which the person was convicted for sealing of all records relating to a conviction. NRS 179.245(1) (emphasis added).

<sup>3</sup> There is a rebuttable presumption that records should be sealed if applicant satisfies all statutory requirements for sealing of records. NRS 179.2445.

**2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.**

(g) Any other misdemeanor

**1 year from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.**

- Arrest without a conviction, dismissal, acquittal, or **decriminalized charges**<sup>4</sup>:  
**No waiting period.**

**Crimes not currently eligible for record sealing under NRS 179.245(6):**

- Crimes against a child;<sup>5</sup>
- Sexual Offenses listed under NRS 179.245(9)(b);<sup>6</sup>
- Invasion of home with a deadly weapon pursuant to NRS 205.067;
- A violation of NRS 484C.110 or 484C.120 that is punishable as a felony (Driving Under the Influence);
- A violation of NRS 484C.430 (Driving Under Influence resulting in death or substantial bodily harm);

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<sup>4</sup> In 2017, Nevada voters voted to legalize (decriminalize) the purchase and possession of up to 1 ounce of marijuana. Passed by Nevada Legislature in 2019, Nevada's Second Chance Act allows person convicted of possession of less than 1 ounce of marijuana a simpler and free record sealing process.

<sup>5</sup> **NRS 179D.0357 defines "Crime against a child" means:**

[A]ny of the following offenses if the victim of the offense was less than 18 years of age when the offense was committed:

- (1) Kidnapping pursuant to NRS 200.310 to 200.340, inclusive, unless the offender is the parent or guardian of the victim.
- (2) False imprisonment pursuant to NRS 200.460, unless the offender is the parent or guardian of the victim.
- (3) Involuntary servitude of a child pursuant to NRS 200.4631, unless the offender is the parent or guardian of the victim.
- (4) An offense involving sex trafficking pursuant to subsection 2 of NRS 201.300 or prostitution pursuant to NRS 201.320 or 201.395.
- (5) An attempt to commit an offense listed in this section.

<sup>6</sup> **NRS 179.245(9)(b) defines "sexual offense" as:**

- (1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.
- (2) Sexual assault pursuant to NRS 200.366.
- (3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.
- (4) Battery with intent to commit sexual assault pursuant to NRS 200.400.
- (5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.
- (6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence, if the crime of violence is an offense listed in this paragraph.
- (7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.
- (8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.
- (9) Incest pursuant to NRS 201.180.
- (10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.
- (11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.
- (12) Lewdness with a child pursuant to NRS 201.230.
- (13) Sexual penetration of a dead human body pursuant to NRS 201.450.
- (14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.
- (15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.
- (16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.
- (17) An attempt to commit an offense listed in this paragraph.

- Homicide that resulted from driving under the influence;
- A violation of NRS 488.410 that is punishable as a felony;-  
(Operating Watercraft while under the influence);
- Homicide or serious bodily injury that resulted from operating a watercraft under the influence.