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FIRST REPRINT

A.B. 192

ASSEMBLY BILL NO. 192—ASSEMBLYMEN McCURDY, ASSEFA, YEAGER, FUMO, FLORES; BACKUS, CARRILLO, FRIERSON, MONROE-MORENO, MUNK, NGUYEN, SWANK, THOMPSON AND WATTS

FEBRUARY 18, 2019

JOINT SPONSORS: SENATORS CANCELA AND PARKS

Referred to Committee on Judiciary

SUMMARY—Establishes a procedure when certain offenses are decriminalized. (BDR 14-319)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; establishing a procedure for requesting the sealing of certain records of criminal history when offenses are decriminalized; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Section 1** of this bill provides that when an offense is decriminalized, a person  
2 who was convicted of the offense before the offense was decriminalized may  
3 submit a request to any court in which the person was convicted that any record of  
4 criminal history relating to the conviction be sealed. **Section 1** does not apply to a  
5 traffic offense. **Sections 1.3, 1.5, 1.7 and 2** of this bill make conforming changes.

6 **Section 3** of this bill provides that the requirements of this bill apply to  
7 offenses decriminalized before, on and after July 1, 2019.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 179 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 **1. *Except as otherwise provided in this section, if an offense***  
4 ***is decriminalized:***



1 (a) Any person who was convicted of that offense before the  
2 date on which the offense was decriminalized may submit a  
3 written request to any court in which the person was convicted of  
4 that offense for the sealing of any record of criminal history in its  
5 possession and in the possession of any agency of criminal justice  
6 relating to the conviction.

7 (b) Upon receipt of a request pursuant to paragraph (a), the  
8 court shall, as soon as practicable, send written notice of the  
9 request to the office of the prosecuting attorney that prosecuted  
10 the offense. If the office of the prosecuting attorney objects to the  
11 granting of the request, a written objection to the request must be  
12 filed with the court within 10 judicial days after the date on which  
13 notice of the request was received. If no written objection to the  
14 request is filed, the court shall grant the request. If a written  
15 objection to the request is filed, the court must hold a hearing on  
16 the request. At the hearing, the court shall grant the request  
17 unless the prosecuting attorney establishes, by clear and  
18 convincing evidence, that there is good cause not to grant the  
19 request. The decision of the court to grant or deny the request is  
20 not subject to appeal.

21 2. No fee may be charged by any court or agency of criminal  
22 justice for the submission of a request pursuant to this section.

23 3. The provisions of this section do not apply to a traffic  
24 offense.

25 4. As used in this section:

26 (a) "Decriminalized" means that an offense is no longer  
27 punishable as a crime as the result of enactment of an act of the  
28 Legislature or the passage of a referendum petition or initiative  
29 petition pursuant to Article 19 of the Nevada Constitution.

30 (b) "Traffic offense" means a violation of any state or local  
31 law or ordinance governing the operation of a motor vehicle upon  
32 any highway within this State.

33 **Sec. 1.3.** NRS 179.275 is hereby amended to read as follows:

34 179.275 Where the court orders the sealing of a record  
35 pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247,  
36 179.255, 179.259, 179.2595, 201.354, 453.3365 or 458.330 **or**  
37 **section 1 of this act**, a copy of the order must be sent to:

38 1. The Central Repository for Nevada Records of Criminal  
39 History; and

40 2. Each agency of criminal justice and each public or private  
41 company, agency, official or other custodian of records named in  
42 the order, and that person shall seal the records in his or her custody  
43 which relate to the matters contained in the order, shall advise the  
44 court of compliance and shall then seal the order.



1       **Sec. 1.5.** NRS 179.285 is hereby amended to read as follows:

2       179.285 Except as otherwise provided in NRS 179.301:

3       1. If the court orders a record sealed pursuant to NRS 174.034,  
4       176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,  
5       179.2595, 201.354, 453.3365 or 458.330 *or section 1 of this act*:

6       (a) All proceedings recounted in the record are deemed never to  
7       have occurred, and the person to whom the order pertains may  
8       properly answer accordingly to any inquiry, including, without  
9       limitation, an inquiry relating to an application for employment,  
10       concerning the arrest, conviction, dismissal or acquittal and the  
11       events and proceedings relating to the arrest, conviction, dismissal  
12       or acquittal.

13       (b) The person is immediately restored to the following civil  
14       rights if the person's civil rights previously have not been restored:

- 15           (1) The right to vote;  
16           (2) The right to hold office; and  
17           (3) The right to serve on a jury.

18       2. Upon the sealing of the person's records, a person who is  
19       restored to his or her civil rights pursuant to subsection 1 must be  
20       given:

21       (a) An official document which demonstrates that the person has  
22       been restored to the civil rights set forth in paragraph (b) of  
23       subsection 1; and

24       (b) A written notice informing the person that he or she has not  
25       been restored to the right to bear arms, unless the person has  
26       received a pardon and the pardon does not restrict his or her right to  
27       bear arms.

28       3. A person who has had his or her records sealed in this State  
29       or any other state and whose official documentation of the  
30       restoration of civil rights is lost, damaged or destroyed may file a  
31       written request with a court of competent jurisdiction to restore his  
32       or her civil rights pursuant to this section. Upon verification that the  
33       person has had his or her records sealed, the court shall issue an  
34       order restoring the person to the civil rights to vote, to hold office  
35       and to serve on a jury. A person must not be required to pay a fee to  
36       receive such an order.

37       4. A person who has had his or her records sealed in this State  
38       or any other state may present official documentation that the person  
39       has been restored to his or her civil rights or a court order restoring  
40       civil rights as proof that the person has been restored to the right to  
41       vote, to hold office and to serve as a juror.

42       **Sec. 1.7.** NRS 179.295 is hereby amended to read as follows:

43       179.295 1. The person who is the subject of the records that  
44       are sealed pursuant to NRS 174.034, 176A.265, 176A.295, 179.245,  
45       179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or



1 458.330 *or section 1 of this act* may petition the court that ordered  
2 the records sealed to permit inspection of the records by a person  
3 named in the petition, and the court may order such inspection.  
4 Except as otherwise provided in this section, subsection 9 of NRS  
5 179.255 and NRS 179.259 and 179.301, the court may not order the  
6 inspection of the records under any other circumstances.

7 2. If a person has been arrested, the charges have been  
8 dismissed and the records of the arrest have been sealed, the court  
9 may order the inspection of the records by a prosecuting attorney  
10 upon a showing that as a result of newly discovered evidence, the  
11 person has been arrested for the same or a similar offense and that  
12 there is sufficient evidence reasonably to conclude that the person  
13 will stand trial for the offense.

14 3. The court may, upon the application of a prosecuting  
15 attorney or an attorney representing a defendant in a criminal action,  
16 order an inspection of such records for the purpose of obtaining  
17 information relating to persons who were involved in the incident  
18 recorded.

19 4. This section does not prohibit a court from considering a  
20 conviction for which records have been sealed pursuant to NRS  
21 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,  
22 179.2595, 201.354, 453.3365 or 458.330 *or section 1 of this act* in  
23 determining whether to grant a petition pursuant to NRS 176A.265,  
24 176A.295, 179.245, 179.255, 179.259, 179.2595, 453.3365 or  
25 458.330 for a conviction of another offense.

26 **Sec. 2.** (Deleted by amendment.)

27 **Sec. 3.** The amendatory provisions of this act apply to an  
28 offense that:

- 29 1. Was decriminalized before July 1, 2019; and
- 30 2. Is decriminalized on or after July 1, 2019.

31 **Sec. 4.** This act becomes effective on July 1, 2019.

