

ASSEMBLY BILL NO. 219—ASSEMBLYMAN YEAGER

MARCH 9, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of criminal records. (BDR 14-137)

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 criminal justice; authorizing the sealing of criminal records after a pardon; requiring the sealing of criminal records under certain circumstances; authorizing the appeal of certain petitions to seal criminal records; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law creates a comprehensive system for the sealing of criminal  
2 records. (NRS 179.2405-179.301) Under existing law there is a presumption that  
3 criminal records should be sealed when the petitioner satisfies all statutory  
4 requirements for the sealing of the records. (NRS 179.2445) This bill requires a  
5 court to seal the criminal records of a petitioner under certain circumstances and  
6 makes various other changes to provisions governing the sealing of criminal  
7 records.

8 **Section 1** of this bill requires a court and the Central Repository for Nevada  
9 Records of Criminal History to seal the criminal records of a person upon receipt of  
10 a certified copy of the unconditional pardon of the person from the State Board of  
11 Pardons Commissioners. If the recipient of the pardon files a petition to seal his or  
12 her criminal records, **section 1** requires the court to grant the petition without  
13 review by the prosecuting attorney or agency so long as the charges that were  
14 pardoned are the same as the charges requested to be sealed.

15 Existing law authorizes a court to order the sealing of criminal records if a  
16 person convicted in the court submits a petition and the prosecuting attorney  
17 stipulates to the sealing of the records. If the prosecuting attorney does not stipulate  
18 to sealing the criminal records, existing law requires a hearing to be conducted to  
19 determine if the records should be sealed. (NRS 179.245, 179.247) **Sections 3 and**  
20 **4** of this bill require a court to grant the sealing of criminal records without a  
21 hearing if all statutory requirements are met and the prosecuting attorney does not  
22 file an objection to the sealing of the criminal records. **Sections 3 and 4** require: (1)  
23 a hearing on the petition to be held to determine if the criminal records should be



24 sealed if the prosecuting attorney files a written objection; and (2) the petition to be  
25 granted if the prosecuting attorney does not attend the hearing.

26 Existing law authorizes a person to petition a court to seal all records relating to  
27 an arrest if: (1) the person was never prosecuted for the crime; (2) a charge was  
28 filed against the person but later dismissed; or (3) the person was acquitted of the  
29 crime. If the prosecuting attorney stipulates to the sealing of the records relating to  
30 the arrest, existing law authorizes the court to seal the records. If the prosecuting  
31 attorney does not stipulate to sealing the records, existing law requires a hearing to  
32 be conducted to determine if the records should be sealed. (NRS 179.255) **Section**  
33 **5** of this bill: (1) requires a court to grant a petition to seal all records relating to an  
34 arrest if there is no evidence that further action will be taken against the person and  
35 the person was acquitted of the crime; and (2) authorizes the court to seal all  
36 records relating to an arrest if there is no evidence that further action will be taken  
37 against the person and the person was never prosecuted for the crime or a charge  
38 was filed against the person but later dismissed. **Section 5** further requires: (1) that  
39 a hearing be conducted when a prosecuting attorney files a written objection to a  
40 petition to seal arrest records; and (2) the court to seal the records of the arrest  
41 pursuant to the statutory presumption favoring the sealing of records if the  
42 prosecuting attorney does not attend the hearing. If the prosecuting attorney does  
43 not file a written objection and the petitioner satisfies all statutory requirements to  
44 seal the records relating to the arrest, **section 5** requires the court to seal the records  
45 without a hearing.

46 **Section 6** of this bill authorizes a person to appeal the denial of a petition to  
47 seal a record after two rehearings on the petition. **Section 7** of this bill authorizes a  
48 person to appeal the denial of a petition to seal records relating to a crime that has  
49 been decriminalized.

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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. If a court and the Central Repository for Nevada Records*  
4 *of Criminal History receive a certified copy of an unconditional*  
5 *pardon from the State Board of Pardons Commissioners, the court*  
6 *and the Central Repository for Nevada Records of Criminal*  
7 *History shall seal all records of criminal history subject to the*  
8 *pardon.*

9 *2. If a person receives a pardon from the State Board of*  
10 *Pardons Commissioners, the person may submit a written petition,*  
11 *accompanied by proof of the pardon, to any court in which the*  
12 *person was convicted for the sealing of all records of criminal*  
13 *history in its possession and in the possession of any agency of*  
14 *criminal justice relating to the charges for which the person*  
15 *received the pardon.*

16 *3. A petition submitted to a court pursuant to this section is*  
17 *not subject to review by the prosecuting attorney or an agency of*  
18 *criminal justice.*



1 **4. The court shall grant a petition submitted to the court**  
2 **pursuant to this section unless the charges listed in the petition are**  
3 **different from the charges listed in the pardon.**

4 **5. No fee may be charged by any court or agency of criminal**  
5 **justice for the submission of a petition pursuant to this section.**

6 **Sec. 2.** NRS 179.2405 is hereby amended to read as follows:

7 179.2405 The Legislature hereby declares that the public  
8 policy of this State is to favor the giving of second chances to  
9 offenders who are rehabilitated and the sealing of the records of  
10 such persons in accordance with NRS 179.2405 to 179.301,  
11 inclusive ~~+~~ **and section 1 of this act.**

12 **Sec. 3.** NRS 179.245 is hereby amended to read as follows:

13 179.245 1. Except as otherwise provided in subsection 6 and  
14 NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,  
15 201.354 and 453.3365, a person may petition the court in which the  
16 person was convicted for the sealing of all records relating to a  
17 conviction of:

18 (a) A category A felony, a crime of violence pursuant to NRS  
19 200.408 or residential burglary pursuant to NRS 205.060 after 10  
20 years from the date of release from actual custody or discharge from  
21 parole or probation, whichever occurs later;

22 (b) Except as otherwise provided in paragraphs (a) and (e), a  
23 category B, C or D felony after 5 years from the date of release from  
24 actual custody or discharge from parole or probation, whichever  
25 occurs later;

26 (c) A category E felony after 2 years from the date of release  
27 from actual custody or discharge from parole or probation,  
28 whichever occurs later;

29 (d) Except as otherwise provided in paragraph (e), any gross  
30 misdemeanor after 2 years from the date of release from actual  
31 custody or discharge from probation, whichever occurs later;

32 (e) A violation of NRS 422.540 to 422.570, inclusive, a  
33 violation of NRS 484C.110 or 484C.120 other than a felony, or a  
34 battery which constitutes domestic violence pursuant to NRS 33.018  
35 other than a felony, after 7 years from the date of release from actual  
36 custody or from the date when the person is no longer under a  
37 suspended sentence, whichever occurs later;

38 (f) Except as otherwise provided in paragraph (e), if the offense  
39 is punished as a misdemeanor, a battery pursuant to NRS 200.481,  
40 harassment pursuant to NRS 200.571, stalking pursuant to NRS  
41 200.575 or a violation of a temporary or extended order for  
42 protection, after 2 years from the date of release from actual custody  
43 or from the date when the person is no longer under a suspended  
44 sentence, whichever occurs later; or



1 (g) Any other misdemeanor after 1 year from the date of release  
2 from actual custody or from the date when the person is no longer  
3 under a suspended sentence, whichever occurs later.

4 2. A petition filed pursuant to subsection 1 must:

5 (a) Be accompanied by the petitioner's current, verified records  
6 received from the Central Repository for Nevada Records of  
7 Criminal History;

8 (b) If the petition references NRS 453.3365, include a certificate  
9 of acknowledgment or the disposition of the proceedings for the  
10 records to be sealed from all agencies of criminal justice which  
11 maintain such records;

12 (c) Include a list of any other public or private agency, company,  
13 official or other custodian of records that is reasonably known to the  
14 petitioner to have possession of records of the conviction and to  
15 whom the order to seal records, if issued, will be directed; and

16 (d) Include information that, to the best knowledge and belief of  
17 the petitioner, accurately and completely identifies the records to be  
18 sealed, including, without limitation, the:

19 (1) Date of birth of the petitioner;

20 (2) Specific conviction to which the records to be sealed  
21 pertain; and

22 (3) Date of arrest relating to the specific conviction to which  
23 the records to be sealed pertain.

24 3. Upon receiving a petition pursuant to this section, the court  
25 shall notify the law enforcement agency that arrested the petitioner  
26 for the crime and the prosecuting attorney, including, without  
27 limitation, the Attorney General, who prosecuted the petitioner for  
28 the crime. The prosecuting attorney and any person having relevant  
29 evidence may testify and present evidence at any hearing on the  
30 petition.

31 4. If the prosecuting attorney ~~[who prosecuted the petitioner for~~  
32 ~~the crime stipulates to the sealing of the records]~~ *does not file a*  
33 *written objection within 10 days* after receiving notification  
34 pursuant to subsection 3 and the court makes the findings set forth  
35 in subsection 5, the court ~~[may]~~ *shall* order the sealing of the  
36 records in accordance with subsection 5 without a hearing. If the  
37 prosecuting attorney ~~[does not stipulate to the sealing of the~~  
38 ~~records,]~~ *files a written objection*, a hearing on the petition must be  
39 conducted. *If the prosecuting attorney fails to attend the hearing,*  
40 *the court shall apply the presumption set forth in NRS 179.2445*  
41 *and seal the records.*

42 5. If the court finds that, in the period prescribed in subsection  
43 1, the petitioner has not been charged with any offense for which the  
44 charges are pending or convicted of any offense, except for minor  
45 moving or standing traffic violations, the court may order sealed all



1 records of the conviction which are in the custody of any agency of  
2 criminal justice or any public or private agency, company, official  
3 or other custodian of records in the State of Nevada, and may also  
4 order all such records of the petitioner returned to the file of the  
5 court where the proceeding was commenced from, including,  
6 without limitation, the Federal Bureau of Investigation and all other  
7 agencies of criminal justice which maintain such records and which  
8 are reasonably known by either the petitioner or the court to have  
9 possession of such records.

10 6. A person may not petition the court to seal records relating  
11 to a conviction of:

12 (a) A crime against a child;

13 (b) A sexual offense;

14 (c) Invasion of the home with a deadly weapon pursuant to  
15 NRS 205.067;

16 (d) A violation of NRS 484C.110 or 484C.120 that is punishable  
17 as a felony pursuant to paragraph (c) of subsection 1 of  
18 NRS 484C.400;

19 (e) A violation of NRS 484C.430;

20 (f) A homicide resulting from driving or being in actual physical  
21 control of a vehicle while under the influence of intoxicating liquor  
22 or a controlled substance or resulting from any other conduct  
23 prohibited by NRS 484C.110, 484C.130 or 484C.430;

24 (g) A violation of NRS 488.410 that is punishable as a felony  
25 pursuant to NRS 488.427; or

26 (h) A violation of NRS 488.420 or 488.425.

27 7. If the court grants a petition for the sealing of records  
28 pursuant to this section, upon the request of the person whose  
29 records are sealed, the court may order sealed all records of the civil  
30 proceeding in which the records were sealed.

31 8. As used in this section:

32 (a) "Crime against a child" has the meaning ascribed to it in  
33 NRS 179D.0357.

34 (b) "Sexual offense" means:

35 (1) Murder of the first degree committed in the perpetration  
36 or attempted perpetration of sexual assault or of sexual abuse or  
37 sexual molestation of a child less than 14 years of age pursuant to  
38 paragraph (b) of subsection 1 of NRS 200.030.

39 (2) Sexual assault pursuant to NRS 200.366.

40 (3) Statutory sexual seduction pursuant to NRS 200.368, if  
41 punishable as a felony.

42 (4) Battery with intent to commit sexual assault pursuant to  
43 NRS 200.400.

44 (5) An offense involving the administration of a drug to  
45 another person with the intent to enable or assist the commission of



1 a felony pursuant to NRS 200.405, if the felony is an offense listed  
2 in this paragraph.

3 (6) An offense involving the administration of a controlled  
4 substance to another person with the intent to enable or assist the  
5 commission of a crime of violence pursuant to NRS 200.408, if the  
6 crime of violence is an offense listed in this paragraph.

7 (7) Abuse of a child pursuant to NRS 200.508, if the abuse  
8 involved sexual abuse or sexual exploitation.

9 (8) An offense involving pornography and a minor pursuant  
10 to NRS 200.710 to 200.730, inclusive.

11 (9) Incest pursuant to NRS 201.180.

12 (10) Open or gross lewdness pursuant to NRS 201.210, if  
13 punishable as a felony.

14 (11) Indecent or obscene exposure pursuant to NRS 201.220,  
15 if punishable as a felony.

16 (12) Lewdness with a child pursuant to NRS 201.230.

17 (13) Sexual penetration of a dead human body pursuant to  
18 NRS 201.450.

19 (14) Sexual conduct between certain employees of a school  
20 or volunteers at a school and a pupil pursuant to NRS 201.540.

21 (15) Sexual conduct between certain employees of a college  
22 or university and a student pursuant to NRS 201.550.

23 (16) Luring a child or a person with mental illness pursuant  
24 to NRS 201.560, if punishable as a felony.

25 (17) An attempt to commit an offense listed in this  
26 paragraph.

27 **Sec. 4.** NRS 179.247 is hereby amended to read as follows:

28 179.247 1. If a person has been convicted of any offense  
29 listed in subsection 2, the person may petition the court in which he  
30 or she was convicted or, if the person wishes to file more than one  
31 petition and would otherwise need to file a petition in more than one  
32 court, the district court, for an order:

33 (a) Vacating the judgment; and

34 (b) Sealing all documents, papers and exhibits in the person's  
35 record, minute book entries and entries on dockets, and other  
36 documents relating to the case in the custody of such other agencies  
37 and officers as are named in the court's order.

38 2. A person may file a petition pursuant to subsection 1 if the  
39 person was convicted of:

40 (a) A violation of NRS 201.354, for engaging in prostitution or  
41 solicitation for prostitution, provided that the person was not alleged  
42 to be a customer of a prostitute;

43 (b) A crime under the laws of this State, other than a crime of  
44 violence; or



1 (c) A violation of a county, city or town ordinance, for loitering  
2 for the purpose of solicitation or prostitution.

3 3. A petition filed pursuant to subsection 1 must satisfy the  
4 requirements of NRS 179.245.

5 4. The court may grant a petition filed pursuant to subsection 1  
6 if:

7 (a) The petitioner was convicted of a violation of an offense  
8 described in subsection 2;

9 (b) The participation of the petitioner in the offense was the  
10 result of the petitioner having been a victim of:

11 (1) Trafficking in persons as described in the Trafficking  
12 Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

13 (2) Involuntary servitude as described in NRS 200.463 or  
14 200.4631; and

15 (c) The petitioner files a petition pursuant to subsection 1 with  
16 due diligence after the petitioner has ceased being a victim of  
17 trafficking or involuntary servitude or has sought services for  
18 victims of such trafficking or involuntary servitude.

19 5. Before the court decides whether to grant a petition filed  
20 pursuant to subsection 1, the court shall:

21 (a) Notify the Central Repository for Nevada Records of  
22 Criminal History, the Office of the Attorney General and each office  
23 of the district attorney and law enforcement agency in the county in  
24 which the petitioner was convicted and allow the prosecuting  
25 attorney who prosecuted the petitioner for the crime and any person  
26 to testify and present evidence on behalf of any such entity; and

27 (b) Take into consideration any reasonable concerns for the  
28 safety of the defendant, family members of the defendant or other  
29 victims that may be jeopardized by the granting of the petition.

30 6. If the prosecuting attorney ~~[who prosecuted the petitioner for~~  
31 ~~the crime stipulates to vacating the judgment of the petitioner and~~  
32 ~~sealing all documents, papers and exhibits related to the case]~~ *does*  
33 *not file a written objection within 10 days* after receiving  
34 notification pursuant to subsection 5 and the court makes the  
35 findings set forth in subsection 4, the court ~~[may]~~ *shall* vacate the  
36 judgment and seal all documents, papers and exhibits in accordance  
37 with subsection 7 without a hearing. If the prosecuting attorney  
38 ~~[does not stipulate to vacating the judgment and sealing the~~  
39 ~~documents, papers and exhibits.]~~ *files a written objection,* a hearing  
40 on the petition must be conducted. *If the prosecuting attorney fails*  
41 *to attend the hearing, the court shall apply the presumption set*  
42 *forth in NRS 179.2445 and seal the records.*

43 7. If the court grants a petition filed pursuant to subsection 1,  
44 the court shall:



1 (a) Vacate the judgment and dismiss the accusatory pleading;  
2 and

3 (b) Order sealed all documents, papers and exhibits in the  
4 petitioner's record, minute book entries and entries on dockets, and  
5 other documents relating to the case in the custody of such other  
6 agencies and officers as are named in the court's order.

7 8. If a petition filed pursuant to subsection 1 does not satisfy  
8 the requirements of NRS 179.245 or the court determines that the  
9 petition is otherwise deficient with respect to the sealing of  
10 the petitioner's record, the court may enter an order to vacate the  
11 judgment and dismiss the accusatory pleading if the petitioner  
12 satisfies all requirements necessary for the judgment to be vacated.

13 9. If the court enters an order pursuant to subsection 8, the  
14 court shall also order sealed the records of the petitioner which  
15 relate to the judgment being vacated in accordance with paragraph  
16 (b) of subsection 7, regardless of whether any records relating to  
17 other convictions are ineligible for sealing either by operation of law  
18 or because of a deficiency in the petition.

19 10. As used in this section, "crime of violence" means:

20 (a) Any offense involving the use or threatened use of force or  
21 violence against the person or property of another; or

22 (b) Any felony for which there is a substantial risk that force or  
23 violence may be used against the person or property of another in  
24 the commission of the felony.

25 **Sec. 5.** NRS 179.255 is hereby amended to read as follows:

26 179.255 1. If a person has been arrested for alleged criminal  
27 conduct and the charges are dismissed, the prosecuting attorney  
28 having jurisdiction declined prosecution of the charges or such  
29 person is acquitted of the charges, the person may petition:

30 (a) The court in which the charges were dismissed, at any time  
31 after the date the charges were dismissed;

32 (b) The court having jurisdiction in which the charges were  
33 declined for prosecution:

34 (1) Any time after the applicable statute of limitations has  
35 run;

36 (2) Any time 8 years after the arrest; or

37 (3) Pursuant to a stipulation between the parties; or

38 (c) The court in which the acquittal was entered, at any time  
39 after the date of the acquittal,

40 ➤ for the sealing of all records relating to the arrest and the  
41 proceedings leading to the dismissal, declination or acquittal.

42 2. If the conviction of a person is set aside pursuant to NRS  
43 458A.240, the person may petition the court that set aside the  
44 conviction, at any time after the conviction has been set aside, for





1 the sealing of all records relating to the setting aside of the  
2 conviction.

3 3. A petition filed pursuant to subsection 1 or 2 must:

4 (a) Be accompanied by the petitioner's current, verified records  
5 received from the Central Repository for Nevada Records of  
6 Criminal History;

7 (b) Except as otherwise provided in paragraph (c), include the  
8 disposition of the proceedings for the records to be sealed;

9 (c) If the petition references NRS 453.3365, include a certificate  
10 of acknowledgment or the disposition of the proceedings for the  
11 records to be sealed from all agencies of criminal justice which  
12 maintain such records;

13 (d) Include a list of any other public or private agency,  
14 company, official and other custodian of records that is reasonably  
15 known to the petitioner to have possession of records of the arrest  
16 and of the proceedings leading to the dismissal, declination or  
17 acquittal and to whom the order to seal records, if issued, will be  
18 directed; and

19 (e) Include information that, to the best knowledge and belief of  
20 the petitioner, accurately and completely identifies the records to be  
21 sealed, including, without limitation, the:

22 (1) Date of birth of the petitioner;

23 (2) Specific charges that were dismissed or of which the  
24 petitioner was acquitted; and

25 (3) Date of arrest relating to the specific charges that were  
26 dismissed or of which the petitioner was acquitted.

27 4. Upon receiving a petition pursuant to subsection 1, the court  
28 shall notify the law enforcement agency that arrested the petitioner  
29 for the crime and:

30 (a) If the charges were dismissed, declined for prosecution or the  
31 acquittal was entered in a district court or justice court, the  
32 prosecuting attorney for the county; or

33 (b) If the charges were dismissed, declined for prosecution or  
34 the acquittal was entered in a municipal court, the prosecuting  
35 attorney for the city.

36 ↪ The prosecuting attorney and any person having relevant  
37 evidence may testify and present evidence at any hearing on the  
38 petition.

39 5. Upon receiving a petition pursuant to subsection 2, the court  
40 shall notify:

41 (a) If the conviction was set aside in a district court or justice  
42 court, the prosecuting attorney for the county; or

43 (b) If the conviction was set aside in a municipal court, the  
44 prosecuting attorney for the city.



1 ↪ The prosecuting attorney and any person having relevant  
2 evidence may testify and present evidence at any hearing on the  
3 petition.

4 6. If the prosecuting attorney ~~[stipulates to the sealing of the~~  
5 ~~records]~~ *does not file a written objection within 10 days* after  
6 receiving notification pursuant to subsection 4 or 5 and the court  
7 makes the findings set forth in subsection 7 or 8, as applicable, the  
8 court ~~[may]~~ *shall* order the sealing of the records in accordance with  
9 subsection 7 or 8, as applicable, without a hearing. If the  
10 prosecuting attorney ~~[does not stipulate to the sealing of the~~  
11 ~~records,]~~ *files a written objection to a petition*, a hearing on the  
12 petition must be conducted. *If the prosecuting attorney fails to*  
13 *attend the hearing, the court shall apply the presumption set forth*  
14 *in NRS 179.2445 and seal the records.*

15 7. If the court finds ~~[that]~~ :

16 (a) *That* there has been an acquittal ~~[, that the prosecution was~~  
17 ~~declined or that the charges were dismissed]~~ and there is no  
18 evidence that further action will be brought against the person, the  
19 court ~~[may]~~ *shall* order sealed all records of the arrest and of the  
20 proceedings leading to the acquittal ~~[, declination or dismissal]~~  
21 which are in the custody of any agency of criminal justice or any  
22 public or private company, agency, official or other custodian of  
23 records in the State of Nevada ~~[.]~~ ; *or*

24 (b) *That prosecution was declined or that the charges were*  
25 *dismissed and there is no evidence that further action will be*  
26 *brought against the person, the court may order sealed all records*  
27 *of the arrest and of the proceedings leading to the declination or*  
28 *dismissal which are in the custody of any agency of criminal*  
29 *justice or any public or private company, agency, official or other*  
30 *custodian of records in the State of Nevada.*

31 8. If the court finds that the conviction of the petitioner was set  
32 aside pursuant to NRS 458A.240, the court may order sealed all  
33 records relating to the setting aside of the conviction which are in  
34 the custody of any agency of criminal justice or any public or  
35 private company, agency, official or other custodian of records in  
36 the State of Nevada.

37 9. If the prosecuting attorney having jurisdiction previously  
38 declined prosecution of the charges and the records of the arrest  
39 have been sealed pursuant to subsection 7, the prosecuting attorney  
40 may subsequently file the charges at any time before the running of  
41 the statute of limitations for those charges. If such charges are filed  
42 with the court, the court shall order the inspection of the records  
43 without the prosecuting attorney having to petition the court  
44 pursuant to NRS 179.295.



1       **Sec. 6.** NRS 179.265 is hereby amended to read as follows:  
2       179.265 1. A person whose petition is denied under NRS  
3       179.245 or 179.255 may petition for a rehearing not sooner than 2  
4       years after the denial of the previous petition.

5       2. No person may petition for more than two rehearings.

6       **3. *A person whose petition is denied may file an appeal after***  
7       ***two rehearings.***

8       **Sec. 7.** NRS 179.271 is hereby amended to read as follows:

9       179.271 1. Except as otherwise provided in this section, if an  
10       offense is decriminalized:

11       (a) Any person who was convicted of that offense before the  
12       date on which the offense was decriminalized may submit a written  
13       request to any court in which the person was convicted of that  
14       offense for the sealing of any record of criminal history in its  
15       possession and in the possession of any agency of criminal justice  
16       relating to the conviction.

17       (b) Upon receipt of a request pursuant to paragraph (a), the court  
18       shall, as soon as practicable, send written notice of the request to the  
19       office of the prosecuting attorney that prosecuted the offense. If  
20       the office of the prosecuting attorney objects to the granting of the  
21       request, a written objection to the request must be filed with  
22       the court within 10 judicial days after the date on which notice of  
23       the request was received. If no written objection to the request is  
24       filed, the court shall grant the request. If a written objection to the  
25       request is filed, the court must hold a hearing on the request. At the  
26       hearing, the court shall grant the request unless the prosecuting  
27       attorney establishes, by clear and convincing evidence, that there is  
28       good cause not to grant the request. The decision of the court to  
29       ~~grant or~~ deny the request is ~~not~~ subject to appeal.

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

32       3. The provisions of this section do not apply to a traffic  
33       offense.

34       4. As used in this section:

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

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

