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SECOND REPRINT

A.B. 219

ASSEMBLY BILL NO. 219—ASSEMBLYMEN YEAGER, NGUYEN, C.H. MILLER, KRASNER, O’NEILL; BILBRAY-AXELROD, COHEN, GONZÁLEZ, HARDY, MARZOLA AND ORENTLICHER

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 the sealing of the criminal records, existing law requires a hearing to be
19 conducted to determine if the records should be sealed. (NRS 179.245, 179.247)

20 **Sections 3 and 4** require: (1) a hearing on the petition to be held to determine if the
21 criminal records should be sealed if the court has not otherwise ordered the sealing
22 of the records or the prosecuting agency files a written objection; and (2) the



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petition to be granted unless an objecting party presents certain evidence. **Section 2.5** of this bill makes a conforming change.

Existing law authorizes a person to petition a court to seal all records relating to an arrest if: (1) the person was never prosecuted for the crime; (2) a charge was filed against the person but later dismissed; or (3) the person was acquitted of the crime. If the prosecuting attorney stipulates to the sealing of the records relating to the arrest, existing law authorizes the court to seal the records. If the prosecuting attorney does not stipulate to the sealing of the records, existing law requires a hearing to be conducted to determine if the records should be sealed. (NRS 179.255) **Section 5** of this bill: (1) requires a court to grant a petition to seal all records relating to an arrest if the prosecuting agency stipulates to sealing the records or if there is no evidence that further action will be taken against the person and the person was acquitted of the crime; and (2) authorizes the court to seal all records relating to an arrest if there is no evidence that further action will be taken against the person and the person was never prosecuted for the crime or a charge was filed against the person but later dismissed. **Section 5** further requires: (1) that a hearing be conducted if the court has not otherwise ordered the sealing of the records or the prosecuting agency files a written objection to a petition to seal the records of the arrest; and (2) the court to seal the records of the arrest pursuant to the statutory presumption favoring the sealing of records unless an objecting party presents certain evidence. If the prosecuting agency does not stipulate to the sealing of the records or does not file a written objection and the petitioner satisfies all statutory requirements to seal the records relating to the arrest, **section 5** requires the court to seal the records without a hearing.

Section 6 of this bill authorizes a person to appeal the denial of a petition to seal a record. **Section 7** of this bill authorizes a person to appeal the denial of a petition to seal records relating to a crime that has been decriminalized.

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

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

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

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

3. A petition submitted to a court pursuant to this section is not subject to review by the prosecuting attorney or an agency of 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 ~~(1)~~, **and section 1 of this act.**

12 **Sec. 2.5.** NRS 179.2445 is hereby amended to read as follows:

13 179.2445 1. Except as otherwise provided in subsection 2,
14 upon the filing of a petition for the sealing of records pursuant to
15 NRS 179.245, **179.247**, 179.255, 179.259 or 179.2595, there is a
16 rebuttable presumption that the records should be sealed if the
17 applicant satisfies all statutory requirements for the sealing of the
18 records.

19 2. The presumption set forth in subsection 1 does not apply to a
20 defendant who is given a dishonorable discharge from probation
21 pursuant to NRS 176A.850 and applies to the court for the sealing
22 of records relating to the conviction.

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

24 179.245 1. Except as otherwise provided in subsection 6 and
25 NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,
26 201.354 and 453.3365, a person may petition the court in which the
27 person was convicted for the sealing of all records relating to a
28 conviction of:

29 (a) A category A felony, a crime of violence pursuant to NRS
30 200.408 or residential burglary pursuant to NRS 205.060 after 10
31 years from the date of release from actual custody or discharge from
32 parole or probation, whichever occurs later;

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

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

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

43 (e) A violation of NRS 422.540 to 422.570, inclusive, a
44 violation of NRS 484C.110 or 484C.120 other than a felony, or a
45 battery which constitutes domestic violence pursuant to NRS 33.018



1 other than a felony, after 7 years from the date of release from actual
2 custody or from the date when the person is no longer under a
3 suspended sentence, whichever occurs later;

4 (f) Except as otherwise provided in paragraph (e), if the offense
5 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
6 harassment pursuant to NRS 200.571, stalking pursuant to NRS
7 200.575 or a violation of a temporary or extended order for
8 protection, after 2 years from the date of release from actual custody
9 or from the date when the person is no longer under a suspended
10 sentence, whichever occurs later; or

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

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

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

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

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

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

29 (1) Date of birth of the petitioner;

30 (2) Specific conviction to which the records to be sealed
31 pertain; and

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

34 3. Upon receiving a petition pursuant to this section, the court
35 shall notify the law enforcement agency that arrested the petitioner
36 for the crime and the prosecuting attorney, including, without
37 limitation, the Attorney General, who prosecuted the petitioner for
38 the crime. The prosecuting attorney and any person having relevant
39 evidence may testify and present evidence at any hearing on the
40 petition.

41 4. If the prosecuting ~~attorney who~~ *agency that* prosecuted the
42 petitioner for the crime stipulates *to the sealing of the records, the*
43 *court shall apply the presumption set forth in NRS 179.2445 and*
44 *seal the records. If the prosecuting agency does not stipulate* to the
45 sealing of the records *or does not file a written objection within 30*



1 *days* after receiving notification pursuant to subsection 3 and the
2 court makes the findings set forth in subsection 5, the court may
3 order the sealing of the records in accordance with subsection 5
4 without a hearing. If the *court does not order the sealing of the*
5 *records or the* prosecuting ~~[attorney does not stipulate to the sealing~~
6 ~~of the records,]~~ *agency files a written objection*, a hearing on the
7 petition must be conducted. *At the hearing, unless an objecting*
8 *party presents evidence sufficient to rebut the presumption set*
9 *forth in NRS 179.2445, the court shall apply the presumption and*
10 *seal the records.*

11 5. If the court finds that, in the period prescribed in subsection
12 1, the petitioner has not been charged with any offense for which the
13 charges are pending or convicted of any offense, except for minor
14 moving or standing traffic violations, the court may order sealed all
15 records of the conviction which are in the custody of any agency of
16 criminal justice or any public or private agency, company, official
17 or other custodian of records in the State of Nevada, and may also
18 order all such records of the petitioner returned to the file of the
19 court where the proceeding was commenced from, including,
20 without limitation, the Federal Bureau of Investigation and all other
21 agencies of criminal justice which maintain such records and which
22 are reasonably known by either the petitioner or the court to have
23 possession of such records.

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

26 (a) A crime against a child;

27 (b) A sexual offense;

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

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

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

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

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

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

41 7. If the court grants a petition for the sealing of records
42 pursuant to this section, upon the request of the person whose
43 records are sealed, the court may order sealed all records of the civil
44 proceeding in which the records were sealed.

45 8. As used in this section:



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

3 (b) "Sexual offense" means:

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

8 (2) Sexual assault pursuant to NRS 200.366.

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

11 (4) Battery with intent to commit sexual assault pursuant to
12 NRS 200.400.

13 (5) An offense involving the administration of a drug to
14 another person with the intent to enable or assist the commission of
15 a felony pursuant to NRS 200.405, if the felony is an offense listed
16 in this paragraph.

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

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

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

25 (9) Incest pursuant to NRS 201.180.

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

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

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

31 (13) Sexual penetration of a dead human body pursuant to
32 NRS 201.450.

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

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

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

39 (17) An attempt to commit an offense listed in this
40 paragraph.

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

42 179.247 1. If a person has been convicted of any offense
43 listed in subsection 2, the person may petition the court in which he
44 or she was convicted or, if the person wishes to file more than one



1 petition and would otherwise need to file a petition in more than one
2 court, the district court, for an order:

3 (a) Vacating the judgment; and

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

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

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

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

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

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

19 4. The court may grant a petition filed pursuant to subsection 1
20 if:

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

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

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

27 (2) Involuntary servitude as described in NRS 200.463 or
28 200.4631; and

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

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

35 (a) Notify the Central Repository for Nevada Records of
36 Criminal History, the Office of the Attorney General and each office
37 of the district attorney and law enforcement agency in the county in
38 which the petitioner was convicted and allow the prosecuting
39 attorney who prosecuted the petitioner for the crime and any person
40 to testify and present evidence on behalf of any such entity; and

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

44 6. If the prosecuting ~~attorney who~~ agency that prosecuted the
45 petitioner for the crime stipulates *to vacating the judgment of the*



1 *petitioner and sealing all documents, papers and exhibits related*
2 *to the case, the court shall apply the presumption set forth in NRS*
3 *179.2445, vacate the judgment and seal all documents, papers and*
4 *exhibits related to the case. If the prosecuting agency does not*
5 *stipulate to vacating the judgment of the petitioner and sealing all*
6 *documents, papers and exhibits related to the case or does not file a*
7 *written objection within 30 days* after receiving notification
8 pursuant to subsection 5 and the court makes the findings set forth
9 in subsection 4, the court may vacate the judgment and seal all
10 documents, papers and exhibits in accordance with subsection 7
11 without a hearing. If the *court does not order the sealing of the*
12 *records or the* prosecuting ~~attorney does not stipulate to vacating~~
13 ~~the judgment and sealing the documents, papers and exhibits,~~
14 *agency files a written objection*, a hearing on the petition must be
15 conducted. *At the hearing, unless an objecting party presents*
16 *evidence sufficient to rebut the presumption set forth in NRS*
17 *179.2445, the court shall vacate the judgment, apply the*
18 *presumption and seal all documents, papers and exhibits related to*
19 *the case.*

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

22 (a) Vacate the judgment and dismiss the accusatory pleading;
23 and

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

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

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

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

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

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

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

(1) Date of birth of the petitioner;

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



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

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

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

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

12 ➤ The prosecuting attorney and any person having relevant
13 evidence may testify and present evidence at any hearing on the
14 petition.

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

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

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

21 ➤ The prosecuting attorney and any person having relevant
22 evidence may testify and present evidence at any hearing on the
23 petition.

24 6. If the prosecuting ~~attorney~~ agency that prosecuted or
25 *declined to prosecute the petitioner for the crime stipulates to the*
26 *sealing of the records, the court shall apply the presumption set*
27 *forth in NRS 179.2445 and seal the records. If the prosecuting*
28 *agency does not stipulate to the sealing of the records or does not*
29 *file a written objection within 30 days* after receiving notification
30 pursuant to subsection 4 or 5 and the court makes the findings set
31 forth in subsection 7 or 8, as applicable, the court may order the
32 sealing of the records in accordance with subsection 7 or 8, as
33 applicable, without a hearing. If the *court does not order the*
34 *sealing of the records or the* prosecuting ~~attorney does not~~
35 ~~stipulate to the sealing of the records,~~ *agency files a written*
36 *objection*, a hearing on the petition must be conducted. *At the*
37 *hearing, unless an objecting party presents evidence sufficient to*
38 *rebut the presumption set forth in NRS 179.2445, the court shall*
39 *apply the presumption and seal the records.*

40 7. If the court finds ~~that~~ :

41 (a) ~~That~~ there has been an acquittal ~~[, that the prosecution was~~
42 ~~declined or that the charges were dismissed]~~ and there is no
43 evidence that further action will be brought against the person, the
44 court ~~may~~ shall order sealed all records of the arrest and of the
45 proceedings leading to the acquittal ~~[, declination or dismissal]~~



1 which are in the custody of any agency of criminal justice or any
2 public or private company, agency, official or other custodian of
3 records in the State of Nevada ~~§~~; or

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

11 8. If the court finds that the conviction of the petitioner was set
12 aside pursuant to NRS 458A.240, the court may order sealed all
13 records relating to the setting aside of the conviction which are in
14 the custody of any agency of criminal justice or any public or
15 private company, agency, official or other custodian of records in
16 the State of Nevada.

17 9. If the prosecuting attorney having jurisdiction previously
18 declined prosecution of the charges and the records of the arrest
19 have been sealed pursuant to subsection 7, the prosecuting attorney
20 may subsequently file the charges at any time before the running of
21 the statute of limitations for those charges. If such charges are filed
22 with the court, the court shall order the inspection of the records
23 without the prosecuting attorney having to petition the court
24 pursuant to NRS 179.295.

25 **Sec. 6.** NRS 179.265 is hereby amended to read as follows:

26 179.265 1. A person whose petition is denied under NRS
27 179.245 or 179.255 may petition for a rehearing not sooner than 2
28 years after the denial of the previous petition.

29 2. ~~No person may petition for more than two hearings.~~ *A*
30 *person whose petition is denied may file an appeal.*

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

32 179.271 1. Except as otherwise provided in this section, if an
33 offense is decriminalized:

34 (a) Any person who was convicted of that offense before the
35 date on which the offense was decriminalized may submit a written
36 request to any court in which the person was convicted of that
37 offense for the sealing of any record of criminal history in its
38 possession and in the possession of any agency of criminal justice
39 relating to the conviction.

40 (b) Upon receipt of a request pursuant to paragraph (a), the court
41 shall, as soon as practicable, send written notice of the request to the
42 office of the prosecuting attorney that prosecuted the offense. If
43 the office of the prosecuting attorney objects to the granting of the
44 request, a written objection to the request must be filed with
45 the court within 10 judicial days after the date on which notice of



1 the request was received. If no written objection to the request is
2 filed, the court shall grant the request. If a written objection to the
3 request is filed, the court must hold a hearing on the request. At the
4 hearing, the court shall grant the request unless the prosecuting
5 attorney establishes, by clear and convincing evidence, that there is
6 good cause not to grant the request. The decision of the court to
7 ~~grant or~~ deny the request is ~~not~~ subject to appeal.

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

10 3. The provisions of this section do not apply to a traffic
11 offense.

12 4. As used in this section:

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

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

