

Amendment No. 142

Assembly Amendment to Assembly Bill No. 219	(BDR 14-137)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/BAW



Date: 4/15/2021

A.B. No. 219—Revises provisions governing the sealing of criminal records.
(BDR 14-137)



ASSEMBLY BILL NO. 219—ASSEMBLYMAN 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.

~

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:

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

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

Existing law authorizes a court to order the sealing of criminal records if a person convicted in the court submits a petition and the prosecuting attorney stipulates to the sealing of the records. If the prosecuting attorney does not stipulate to the sealing of the criminal records, existing law requires a hearing to be conducted to determine if the records should be sealed. (NRS 179.245, 179.247) **Sections 3 and 4** of this bill require a court to grant the sealing of the criminal records without a hearing if : **(1) the prosecuting agency stipulates to the sealing of the records; or (2)** all statutory requirements are met and the prosecuting ~~attorney~~ **agency does not stipulate to the sealing of the records** or does not file an objection to the sealing of the ~~criminal~~ records. **Sections 3 and 4** require: (1) a hearing on the petition to be held to determine if the criminal records should be sealed if the prosecuting ~~attorney~~ **agency** files a written objection; and (2) the petition to be granted if ~~the prosecuting attorney does not attend~~ **no objecting party attends** the hearing.

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

28 stipulates to the sealing of the records relating to the arrest, existing law authorizes the court
 29 to seal the records. If the prosecuting attorney does not stipulate to **the sealing of** the records,
 30 existing law requires a hearing to be conducted to determine if the records should be sealed.
 31 (NRS 179.255) **Section 5** of this bill: (1) requires a court to grant a petition to seal all records
 32 relating to an arrest if **the prosecuting agency stipulates to sealing the records or if** there is
 33 no evidence that further action will be taken against the person and the person was acquitted
 34 of the crime; and (2) authorizes the court to seal all records relating to an arrest if there is no
 35 evidence that further action will be taken against the person and the person was never
 36 prosecuted for the crime or a charge was filed against the person but later dismissed. **Section**
 37 **5** further requires: (1) that a hearing be conducted when a prosecuting ~~attorney~~ **agency** files
 38 a written objection to a petition to seal ~~arrest~~ **the records of the arrest;** and (2) the court
 39 to seal the records of the arrest pursuant to the statutory presumption favoring the sealing of
 40 records if ~~the prosecuting attorney does not attend~~ **no objecting party attends** the hearing.
 41 If the prosecuting ~~attorney~~ **agency does not stipulate to the sealing of the records or** does
 42 not file a written objection and the petitioner satisfies all statutory requirements to seal the
 43 records relating to the arrest, **section 5** requires the court to seal the records without a hearing.
 44 **Section 6** of this bill authorizes a person to appeal the denial of a petition to seal a record
 45 ~~after two rehearings on the petition.~~ **Section 7** of this bill authorizes a person to appeal the
 46 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:

1 **Section 1.** Chapter 179 of NRS is hereby amended by adding thereto a new
 2 section to read as follows:
 3 *1. If a court and the Central Repository for Nevada Records of Criminal
 4 History receive a certified copy of an unconditional pardon from the State Board
 5 of Pardons Commissioners, the court and the Central Repository for Nevada
 6 Records of Criminal History shall seal all records of criminal history subject to
 7 the pardon.*
 8 *2. If a person receives a pardon from the State Board of Pardons
 9 Commissioners, the person may submit a written petition, accompanied by proof
 10 of the pardon, to any court in which the person was convicted for the sealing of
 11 all records of criminal history in its possession and in the possession of any
 12 agency of criminal justice relating to the charges for which the person received
 13 the pardon.*
 14 *3. A petition submitted to a court pursuant to this section is not subject to
 15 review by the prosecuting attorney or an agency of criminal justice.*
 16 *4. The court shall grant a petition submitted to the court pursuant to this
 17 section unless the charges listed in the petition are different from the charges
 18 listed in the pardon.*
 19 *5. No fee may be charged by any court or agency of criminal justice for the
 20 submission of a petition pursuant to this section.*
 21 **Sec. 2.** NRS 179.2405 is hereby amended to read as follows:
 22 179.2405 The Legislature hereby declares that the public policy of this State
 23 is to favor the giving of second chances to offenders who are rehabilitated and the
 24 sealing of the records of such persons in accordance with NRS 179.2405 to
 25 179.301, inclusive ~~and~~, **and section 1 of this act.**
 26 **Sec. 3.** NRS 179.245 is hereby amended to read as follows:
 27 179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211,
 28 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, a
 29 person may petition the court in which the person was convicted for the sealing of
 30 all records relating to a conviction of:

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

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

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

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

12 (e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS
13 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic
14 violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of
15 release from actual custody or from the date when the person is no longer under a
16 suspended sentence, whichever occurs later;

17 (f) Except as otherwise provided in paragraph (e), if the offense is punished as
18 a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS
19 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary or
20 extended order for protection, after 2 years from the date of release from actual
21 custody or from the date when the person is no longer under a suspended sentence,
22 whichever occurs later; or

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

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

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

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

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

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

39 (1) Date of birth of the petitioner;

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

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

43 3. Upon receiving a petition pursuant to this section, the court shall notify the
44 law enforcement agency that arrested the petitioner for the crime and the
45 prosecuting attorney, including, without limitation, the Attorney General, who
46 prosecuted the petitioner for the crime. The prosecuting attorney and any person
47 having relevant evidence may testify and present evidence at any hearing on the
48 petition.

49 4. If the prosecuting ~~[attorney who]~~ agency that prosecuted the petitioner for
50 the crime stipulates to the sealing of the records, the court shall apply the
51 presumption set forth in NRS 179.2445 and seal the records. If the prosecuting
52 agency does not stipulate to the sealing of the records or does not file a written
53 objection within ~~10~~ 30 days after receiving notification pursuant to subsection 3

1 and the court makes the findings set forth in subsection 5, the court ~~[may]~~ *shall*
2 order the sealing of the records in accordance with subsection 5 without a hearing.
3 If the prosecuting ~~[attorney does not stipulate to the sealing of the records,]~~ *agency*
4 *files a written objection*, a hearing on the petition must be conducted. ~~If the~~
5 ~~prosecuting attorney fails to attend,~~ *no objecting party attends the hearing, the*
6 *court shall apply the presumption set forth in NRS 179.2445 and seal the records.*

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

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

- 20 (a) A crime against a child;
21 (b) A sexual offense;
22 (c) Invasion of the home with a deadly weapon pursuant to NRS 205.067;
23 (d) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony
24 pursuant to paragraph (c) of subsection 1 of NRS 484C.400;
25 (e) A violation of NRS 484C.430;
26 (f) A homicide resulting from driving or being in actual physical control of a
27 vehicle while under the influence of intoxicating liquor or a controlled substance or
28 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
29 484C.430;
30 (g) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS
31 488.427; or
32 (h) A violation of NRS 488.420 or 488.425.

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

36 8. As used in this section:

- 37 (a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.
38 (b) "Sexual offense" means:
39 (1) Murder of the first degree committed in the perpetration or attempted
40 perpetration of sexual assault or of sexual abuse or sexual molestation of a child
41 less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.
42 (2) Sexual assault pursuant to NRS 200.366.
43 (3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a
44 felony.
45 (4) Battery with intent to commit sexual assault pursuant to NRS 200.400.
46 (5) An offense involving the administration of a drug to another person
47 with the intent to enable or assist the commission of a felony pursuant to NRS
48 200.405, if the felony is an offense listed in this paragraph.
49 (6) An offense involving the administration of a controlled substance to
50 another person with the intent to enable or assist the commission of a crime of
51 violence pursuant to NRS 200.408, if the crime of violence is an offense listed in
52 this paragraph.

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

3 (8) An offense involving pornography and a minor pursuant to NRS
4 200.710 to 200.730, inclusive.

5 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

16 (16) Luring a child or a person with mental illness pursuant to NRS
17 201.560, if punishable as a felony.

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

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

20 179.247 1. If a person has been convicted of any offense listed in subsection
21 2, the person may petition the court in which he or she was convicted or, if the
22 person wishes to file more than one petition and would otherwise need to file a
23 petition in more than one court, the district court, for an order:

24 (a) Vacating the judgment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (a) Notify the Central Repository for Nevada Records of Criminal History, the
52 Office of the Attorney General and each office of the district attorney and law
53 enforcement agency in the county in which the petitioner was convicted and allow

1 the prosecuting attorney who prosecuted the petitioner for the crime and any person
2 to testify and present evidence on behalf of any such entity; and

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

6 6. If the prosecuting ~~attorney who~~ agency that prosecuted the petitioner for
7 the crime stipulates to vacating the judgment of the petitioner and sealing all
8 documents, papers and exhibits related to the case, the court shall apply the
9 presumption set forth in NRS 179.2445, vacate the judgment and seal all
10 documents, papers and exhibits related to the case. If the prosecuting agency does
11 not stipulate to vacating the judgment of the petitioner and sealing all documents,
12 papers and exhibits related to the case or does not file a written objection within
13 ~~10~~ 30 days after receiving notification pursuant to subsection 5 and the court
14 makes the findings set forth in subsection 4, the court ~~may~~ shall vacate the
15 judgment and seal all documents, papers and exhibits in accordance with subsection
16 7 without a hearing. If the prosecuting ~~attorney does not stipulate to vacating the~~
17 ~~judgment and sealing the documents, papers and exhibits,~~ agency files a written
18 objection, a hearing on the petition must be conducted. ~~If the prosecuting attorney~~
19 ~~fails to attend,~~ no objecting party attends the hearing, the court shall apply the
20 presumption set forth in NRS 179.2445, vacate the judgment and seal the
21 ~~records,~~ all documents, papers and exhibits related to the case.

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

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

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

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

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

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

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

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

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

44 179.255 1. If a person has been arrested for alleged criminal conduct and
45 the charges are dismissed, the prosecuting attorney having jurisdiction declined
46 prosecution of the charges or such person is acquitted of the charges, the person
47 may petition:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) Date of birth of the petitioner;

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

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

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

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

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

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

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

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

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

44 ↪ The prosecuting attorney and any person having relevant evidence may testify
45 and present evidence at any hearing on the petition.

46 6. If the prosecuting ~~attorney~~ agency that prosecuted or declined to
47 prosecute the petitioner for the crime stipulates to the sealing of the records, the
48 court shall apply the presumption set forth in NRS 179.2445 and seal the records.

49 If the prosecuting agency does not stipulate to the sealing of the records or does
50 not file a written objection within ~~10~~ 30 days after receiving notification pursuant

51 to subsection 4 or 5 and the court makes the findings set forth in subsection 7 or 8,
52 as applicable, the court ~~may~~ shall order the sealing of the records in accordance
53 with subsection 7 or 8, as applicable, without a hearing. If the prosecuting ~~attorney~~

1 ~~does not stipulate to the sealing of the records,]~~ *agency files a written objection to*
2 *a petition*, a hearing on the petition must be conducted. ~~If [the prosecuting attorney~~
3 ~~fails to attend]~~ *no objecting party attends the hearing, the court shall apply the*
4 *presumption set forth in NRS 179.2445 and seal the records.*

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

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

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

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

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

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

31 179.265 1. A person whose petition is denied under NRS 179.245 or
32 179.255 may petition for a rehearing not sooner than 2 years after the denial of the
33 previous petition.

34 2. ~~[No person may petition for more than two rehearings.~~

35 ~~3.] A person whose petition is denied may file an appeal . [after two~~
36 ~~rehearings.]~~

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

38 179.271 1. Except as otherwise provided in this section, if an offense is
39 decriminalized:

40 (a) Any person who was convicted of that offense before the date on which the
41 offense was decriminalized may submit a written request to any court in which the
42 person was convicted of that offense for the sealing of any record of criminal
43 history in its possession and in the possession of any agency of criminal justice
44 relating to the conviction.

45 (b) Upon receipt of a request pursuant to paragraph (a), the court shall, as soon
46 as practicable, send written notice of the request to the office of the prosecuting
47 attorney that prosecuted the offense. If the office of the prosecuting attorney objects
48 to the granting of the request, a written objection to the request must be filed with
49 the court within 10 judicial days after the date on which notice of the request was
50 received. If no written objection to the request is filed, the court shall grant the
51 request. If a written objection to the request is filed, the court must hold a hearing
52 on the request. At the hearing, the court shall grant the request unless the
53 prosecuting attorney establishes, by clear and convincing evidence, that there is

1 good cause not to grant the request. The decision of the court to ~~grant or~~ deny the
2 request is ~~not~~ subject to appeal.

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

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

6 4. As used in this section:

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

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