

Amendment No. 862

Senate Amendment to Assembly Bill No. 219 First Reprint	(BDR 14-137)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amendment Box:</b> Replaces Amendment No. 846.	
<b>Amends:</b> 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.

NCA



Date: 5/31/2021

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





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:**

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 agency does not stipulate to the sealing of the records or does not file an objection to the sealing of the 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 court has not otherwise ordered the sealing of the records or** the prosecuting agency files a written objection; and (2) the petition to be granted ~~if no~~ **unless an** objecting party ~~attends the hearing.~~ **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 ~~[when a]~~ **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 ~~[if no]~~ **unless an** objecting party ~~[attends the hearing]~~ **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.*

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

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

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

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

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

179.2445 1. Except as otherwise provided in subsection 2, upon the filing of a petition for the sealing of records pursuant to NRS 179.245, 179.247, 179.255,

1 179.259 or 179.2595, there is a rebuttable presumption that the records should be  
2 sealed if the applicant satisfies all statutory requirements for the sealing of the  
3 records.

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

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

8 179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211,  
9 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, a  
10 person may petition the court in which the person was convicted for the sealing of  
11 all records relating to a conviction of:

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

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

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

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

23 (e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS  
24 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic  
25 violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of  
26 release from actual custody or from the date when the person is no longer under a  
27 suspended sentence, whichever occurs later;

28 (f) Except as otherwise provided in paragraph (e), if the offense is punished as  
29 a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS  
30 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary or  
31 extended order for protection, after 2 years from the date of release from actual  
32 custody or from the date when the person is no longer under a suspended sentence,  
33 whichever occurs later; or

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

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

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

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

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

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

50 (1) Date of birth of the petitioner;

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

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

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

7           4. If the prosecuting ~~[attorney who]~~ *agency that* prosecuted the petitioner for  
8 the crime stipulates *to the sealing of the records, the court shall apply the*  
9 *presumption set forth in NRS 179.2445 and seal the records. If the prosecuting*  
10 *agency does not stipulate* to the sealing of the records *or does not file a written*  
11 *objection within 30 days* after receiving notification pursuant to subsection 3 and  
12 the court makes the findings set forth in subsection 5, the court ~~may [shall]~~  
13 the sealing of the records in accordance with subsection 5 without a hearing. If the  
14 ~~court does not order the sealing of the records or the~~ prosecuting ~~[attorney does~~  
15 ~~not stipulate to the sealing of the records,]~~ *agency files a written objection,* a  
16 hearing on the petition must be conducted. ~~[If no]~~ *At the hearing, unless an*  
17 *objecting party [attends the hearing, the court shall apply] presents evidence*  
18 *sufficient to rebut the presumption set forth in NRS 179.2445 ,the court shall*  
19 *apply the presumption and seal the records.*

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

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

- 33           (a) A crime against a child;  
34           (b) A sexual offense;  
35           (c) Invasion of the home with a deadly weapon pursuant to NRS 205.067;  
36           (d) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony  
37 pursuant to paragraph (c) of subsection 1 of NRS 484C.400;  
38           (e) A violation of NRS 484C.430;  
39           (f) A homicide resulting from driving or being in actual physical control of a  
40 vehicle while under the influence of intoxicating liquor or a controlled substance or  
41 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or  
42 484C.430;  
43           (g) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS  
44 488.427; or  
45           (h) A violation of NRS 488.420 or 488.425.

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

49           8. As used in this section:

- 50           (a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.  
51           (b) "Sexual offense" means:

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

4 (2) Sexual assault pursuant to NRS 200.366.

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

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

8 (5) An offense involving the administration of a drug to another person  
9 with the intent to enable or assist the commission of a felony pursuant to NRS  
10 200.405, if the felony is an offense listed in this paragraph.

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

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

17 (8) An offense involving pornography and a minor pursuant to NRS  
18 200.710 to 200.730, inclusive.

19 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

30 (16) Luring a child or a person with mental illness pursuant to NRS  
31 201.560, if punishable as a felony.

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

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

34 179.247 1. If a person has been convicted of any offense listed in subsection  
35 2, the person may petition the court in which he or she was convicted or, if the  
36 person wishes to file more than one petition and would otherwise need to file a  
37 petition in more than one court, the district court, for an order:

38 (a) Vacating the judgment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 6. If the prosecuting ~~attorney who~~ agency that prosecuted the petitioner for  
22 the crime stipulates *to vacating the judgment of the petitioner and sealing all*  
23 *documents, papers and exhibits related to the case, the court shall apply the*  
24 *presumption set forth in NRS 179.2445, vacate the judgment and seal all*  
25 *documents, papers and exhibits related to the case. If the prosecuting agency does*  
26 *not stipulate* to vacating the judgment of the petitioner and sealing all documents,  
27 papers and exhibits related to the case *or does not file a written objection within 30*  
28 *days* after receiving notification pursuant to subsection 5 and the court makes the  
29 findings set forth in subsection 4, the court ~~may~~ ~~shall~~ vacate the judgment and  
30 seal all documents, papers and exhibits in accordance with subsection 7 without a  
31 hearing. If the ~~court does not order the sealing of the records or the~~ prosecuting  
32 ~~attorney does not stipulate to vacating the judgment and sealing the documents,~~  
33 ~~papers and exhibits,~~ *agency files a written objection,* a hearing on the petition  
34 must be conducted. ~~If no~~ *At the hearing, unless an objecting party attends the*  
35 ~~hearing, the court shall apply~~ *presents evidence sufficient to rebut the*  
36 *presumption set forth in NRS 179.2445, the court shall vacate the judgment,*  
37 *apply the presumption and seal all documents, papers and exhibits related to the*  
38 *case.*

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

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

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

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

50 9. If the court enters an order pursuant to subsection 8, the court shall also  
51 order sealed the records of the petitioner which relate to the judgment being vacated  
52 in accordance with paragraph (b) of subsection 7, regardless of whether any records



1 relating to other convictions are ineligible for sealing either by operation of law or  
2 because of a deficiency in the petition.

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

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

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

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

9 179.255 1. If a person has been arrested for alleged criminal conduct and  
10 the charges are dismissed, the prosecuting attorney having jurisdiction declined  
11 prosecution of the charges or such person is acquitted of the charges, the person  
12 may petition:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (1) Date of birth of the petitioner;

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

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

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

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

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

3 ➤ The prosecuting attorney and any person having relevant evidence may testify  
4 and present evidence at any hearing on the petition.

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

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

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

10 ➤ The prosecuting attorney and any person having relevant evidence may testify  
11 and present evidence at any hearing on the petition.

12 6. If the prosecuting ~~attorney~~ *agency that prosecuted or declined to*  
13 *prosecute the petitioner for the crime* stipulates *to the sealing of the records, the*  
14 *court shall apply the presumption set forth in NRS 179.2445 and seal the records.*  
15 *If the prosecuting agency does not stipulate* to the sealing of the records *or does*  
16 *not file a written objection within 30 days* after receiving notification pursuant to  
17 subsection 4 or 5 and the court makes the findings set forth in subsection 7 or 8, as  
18 applicable, the court ~~may~~ ~~shall~~ order the sealing of the records in accordance with  
19 subsection 7 or 8, as applicable, without a hearing. If the ~~court does not order the~~  
20 ~~sealing of the records or the~~ prosecuting ~~attorney does not stipulate to the sealing~~  
21 ~~of the records,~~ *agency files a written objection,* ~~to a petition,~~ a hearing on the  
22 petition must be conducted. ~~If no~~ *At the hearing, unless an objecting party*  
23 *attends the hearing,* ~~presents evidence sufficient to rebut the presumption set~~  
24 ~~forth in NRS 179.2445, the court shall apply the presumption~~ *set forth in NRS*  
25 *179.2445 and seal the records.*

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

27 (a) ~~That there has been an acquittal~~ ~~that the prosecution was declined or that~~  
28 ~~the charges were dismissed~~ and there is no evidence that further action will be  
29 brought against the person, the court ~~may~~ *shall* order sealed all records of the  
30 arrest and of the proceedings leading to the acquittal ~~that, declination or dismissal~~  
31 which are in the custody of any agency of criminal justice or any public or private  
32 company, agency, official or other custodian of records in the State of Nevada ~~that~~ ;  
33 *or*

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

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

45 9. If the prosecuting attorney having jurisdiction previously declined  
46 prosecution of the charges and the records of the arrest have been sealed pursuant to  
47 subsection 7, the prosecuting attorney may subsequently file the charges at any time  
48 before the running of the statute of limitations for those charges. If such charges are  
49 filed with the court, the court shall order the inspection of the records without the  
50 prosecuting attorney having to petition the court 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 179.245 or  
3       179.255 may petition for a rehearing not sooner than 2 years after the denial of the  
4       previous petition.

5       2. ~~[No person may petition for more than two rehearings.]~~ *A person whose*  
6       *petition is denied may file an appeal.*

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

8       179.271 1. Except as otherwise provided in this section, if an offense is  
9       decriminalized:

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

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

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

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

29      4. As used in this section:

30      (a) “Decriminalized” means that an offense is no longer punishable as a crime  
31      as the result of enactment of an act of the Legislature or the passage of a  
32      referendum petition or initiative petition pursuant to Article 19 of the Nevada  
33      Constitution.

34      (b) “Traffic offense” means a violation of any state or local law or ordinance  
35      governing the operation of a motor vehicle upon any highway within this State.