

ASSEMBLY BILL NO. 160—ASSEMBLYMEN C.H. MILLER, YEAGER,
MONROE-MORENO, JAUREGUI AND BRITTNEY MILLER

FEBRUARY 14, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of certain criminal records. (BDR 14-634)

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 records; providing for the automatic sealing of criminal records relating to certain convictions of a person and certain charges against a person; revising provisions relating to a petition to seal criminal records relating to certain charges brought against a person; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes certain procedures pursuant to which a person is authorized to petition a court for the sealing of criminal records relating to: (1) convictions for certain offenses; (2) charges against a person that were dismissed or declined for prosecution or for which the person was acquitted; (3) a conviction which has been set aside; and (4) a conviction for an offense that has been decriminalized. Existing law: (1) establishes certain requirements concerning the amount of time that must elapse after a person was convicted or charged before the records relating to the conviction or charge are eligible to be sealed through the filing of such a petition; and (2) sets forth the circumstances under which a court is authorized or required to grant the petition. (NRS 179.245, 179.255, 179.271)

Section 1 of this bill requires the Records, Communications and Compliance Division of the Department of Public Safety, not later than January 1, 2026, to develop and implement a process to identify each: (1) conviction of a person and each charge against a person that becomes an eligible conviction and eligible charge; and (2) agency of criminal justice or public or private company, agency, officer or other custodian of records that may reasonably be identified as having possession of records relating to an eligible conviction or eligible charge. **Section 1** defines “eligible conviction” and “eligible charge” to mean, in general, certain convictions or charges if the records relating to the conviction or charge are eligible to be sealed pursuant to the provisions of existing law governing the sealing of records. After the development and implementation of the process of identifying eligible convictions and eligible charges, **section 1** requires the Division to, each



23 month: (1) identify and compile a list of each conviction or charge that has become
24 an eligible conviction or eligible charge in the immediately preceding month and
25 each person or governmental entity identified as having possession of records
26 relating to those eligible convictions and eligible charges; and (2) transmit the list
27 to each court having jurisdiction to order sealed the records relating to a listed
28 eligible conviction or eligible charge. **Section 1** requires a court that receives such a
29 list to order sealed all records relating to each listed eligible conviction or eligible
30 charge over which the court has jurisdiction to order the sealing of records. **Section**
31 **5** of this bill requires the order to be sent to the persons and governmental entities
32 named in the order, who are then required to seal records relating to the eligible
33 conviction or eligible charge.

34 Existing law provides that if a court seals certain records of a person, certain
35 civil rights of the person are restored. Existing law requires the person to be given
36 documentation demonstrating that fact. If the documentation is lost, damaged or
37 destroyed, the person is authorized to request that a court issue an order to restore
38 his or her civil rights. (NRS 179.285) **Section 6** of this bill also provides for the
39 restoration of civil rights if the records of a person are sealed pursuant to **section 1**.
40 However, under **section 6**, the person is not required to be given documentation
41 demonstrating that fact. Instead, **section 6** authorizes a person who was not given
42 documentation of the restoration of his or her civil rights to request that a court
43 issue an order in the same manner as a person whose documentation is lost,
44 damaged or destroyed.

45 **Section 7** of this bill authorizes a person who is the subject of records that are
46 sealed pursuant to **section 1** to petition a court to allow for the inspection of the
47 records. **Section 8** of this bill authorizes certain other governmental entities to
48 inspect such records under certain circumstances.

49 If a person is arrested and the charges against the person are dismissed or
50 declined for prosecution or the person is acquitted of the charges, existing law
51 authorizes the person to petition a court for the sealing of all records relating to the
52 arrest and the proceedings leading to the dismissal, declination or acquittal. (NRS
53 179.255) **Section 4** of this bill authorizes a person against whom multiple charges
54 were brought, consisting of both charges for which the person was convicted and
55 charges which were disposed of by dismissal, declination or acquittal, to petition
56 for the sealing of those portions of the records relating to the arrest of the person
57 and the subsequent proceedings that relate to the charges which were disposed of
58 by dismissal, declination or acquittal.

59 **Sections 2 and 3** of this bill make conforming changes to indicate the proper
60 placement of **section 1** in the Nevada Revised Statutes.

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

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

3 *1. Not later than January 1, 2026, the Division shall develop*
4 *and implement a process to identify, based on data maintained in*
5 *the records of the Division, each:*

6 *(a) Conviction of a person that becomes an eligible conviction;*

7 *(b) Charge against a person that becomes an eligible charge;*

8 *and*



1 (c) Agency of criminal justice or public or private company,
2 agency, officer and other custodian of records that may
3 reasonably be identified as having possession of records relating
4 to a conviction or charge that becomes an eligible conviction or
5 eligible charge.

6 2. After the development and implementation of the process
7 described in subsection 1, the Division shall, each month:

8 (a) Identify each:

9 (1) Conviction of a person or charge against a person that
10 has become an eligible conviction or eligible charge in the
11 immediately preceding month; and

12 (2) Agency of criminal justice or public or private company,
13 agency, officer or other custodian of records that may reasonably
14 be identified as having possession of records relating to an eligible
15 conviction or eligible charge identified pursuant to
16 subparagraph (1);

17 (b) Compile a list of each eligible conviction, eligible charge
18 and person or governmental entity identified pursuant to
19 paragraph (a); and

20 (c) Transmit the list compiled pursuant to paragraph (b) to
21 each court having jurisdiction pursuant to NRS 179.245, 179.255
22 or 179.271 to order the sealing of records relating to an eligible
23 conviction or eligible charge identified on the list.

24 3. A court that receives a list transmitted by the Division
25 pursuant to paragraph (c) of subsection 2 shall order sealed all
26 records relating to each eligible conviction or eligible charge over
27 which the court has jurisdiction pursuant to NRS 179.245,
28 179.255 or 179.271 to order the sealing of records. The court shall
29 issue the order without a hearing and not later than 15 days after
30 the receipt of the list. Each person or governmental entity
31 identified on the list as having possession of records relating to an
32 eligible conviction or eligible charge to which the order applies
33 must be named in the order.

34 4. The Division shall take such actions as are necessary to
35 ensure public awareness of the provisions of this section. Such
36 actions may include, without limitation, the posting of appropriate
37 information on an Internet website maintained by the Division or
38 the conducting of a public awareness campaign.

39 5. The Division may adopt regulations as necessary to carry
40 out the provisions of this section.

41 6. As used in this section:

42 (a) "Division" means the Records, Communications and
43 Compliance Division of the Department of Public Safety.



1 (b) *“Eligible charge” means any charge against a person if the*
2 *records relating to the charge are eligible to be sealed pursuant to*
3 *subsection 1 of NRS 179.255.*

4 (c) *“Eligible conviction” means any conviction of a person if*
5 *the records relating to the conviction are eligible to be sealed*
6 *pursuant to:*

7 (1) *Subsection 1 of NRS 179.245, subsection 2 of NRS*
8 *179.255 or NRS 179.271; and*

9 (2) *Subsection 1 of NRS 179.245, the person has not been,*
10 *in the time period prescribed in that subsection, charged with any*
11 *offense for which the charges are pending or convicted of any*
12 *offense, except for minor moving or standing traffic violations.*

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

14 179.2405 The Legislature hereby declares that the public
15 policy of this State is to favor the giving of second chances to
16 offenders who are rehabilitated and the sealing of the records of
17 such persons in accordance with NRS 179.2405 to 179.301,
18 inclusive ~~§~~, *and section 1 of this act.*

19 **Sec. 3.** NRS 179.241 is hereby amended to read as follows:

20 179.241 As used in NRS 179.2405 to 179.301, inclusive, *and*
21 *section 1 of this act*, unless the context otherwise requires, the
22 words and terms defined in NRS 179.242, 179.243 and 179.244
23 have the meanings ascribed to them in those sections.

24 **Sec. 4.** NRS 179.255 is hereby amended to read as follows:

25 179.255 1. If a person has been arrested for alleged criminal
26 conduct and the charges are dismissed, the prosecuting attorney
27 having jurisdiction declined prosecution of the charges or such
28 person is acquitted of the charges, the person may petition:

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

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

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

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

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

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

39 ↪ for the sealing of all records relating to the arrest and the
40 proceedings leading to the dismissal, declination or acquittal. *If a*
41 *person has been arrested for alleged criminal conduct and*
42 *multiple charges were brought against the person, consisting of*
43 *both charges for which the person was convicted and charges*
44 *which were disposed of by dismissal, declination or acquittal, a*
45 *petition filed pursuant to this subsection may request the sealing*



1 *of those portions of the records relating to the arrest and the*
2 *subsequent proceedings that relate to the charges which were*
3 *disposed of by dismissal, declination or acquittal.*

4 2. If the conviction of a person is set aside pursuant to NRS
5 458A.240, the person may petition the court that set aside the
6 conviction, at any time after the conviction has been set aside, for
7 the sealing of all records relating to the setting aside of the
8 conviction.

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

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

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

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

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

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

28 (1) Date of birth of the petitioner;

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

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

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

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

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

42 ➡ The prosecuting attorney and any person having relevant
43 evidence may testify and present evidence at any hearing on the
44 petition.



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

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

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

7 ↪ The prosecuting attorney and any person having relevant
8 evidence may testify and present evidence at any hearing on the
9 petition.

10 6. If the prosecuting agency that prosecuted or declined to
11 prosecute the petitioner for the crime stipulates to the sealing of the
12 records, the court shall apply the presumption set forth in NRS
13 179.2445 and seal the records. If the prosecuting agency does not
14 stipulate to the sealing of the records or does not file a written
15 objection within 30 days after receiving notification pursuant to
16 subsection 4 or 5 and the court makes the findings set forth in
17 subsection 7 or 8, as applicable, the court may order the sealing of
18 the records in accordance with subsection 7 or 8, as applicable,
19 without a hearing. If the court does not order the sealing of the
20 records or the prosecuting agency files a written objection, a hearing
21 on the petition must be conducted. At the hearing, unless an
22 objecting party presents evidence sufficient to rebut the presumption
23 set forth in NRS 179.2445, the court shall apply the presumption
24 and seal the records.

25 7. If the court finds:

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

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

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



1 9. If the prosecuting attorney having jurisdiction previously
2 declined prosecution of the charges and the records of the arrest
3 have been sealed pursuant to subsection 7, the prosecuting attorney
4 may subsequently file the charges at any time before the running of
5 the statute of limitations for those charges. If such charges are filed
6 with the court, the court shall order the inspection of the records
7 without the prosecuting attorney having to petition the court
8 pursuant to NRS 179.295.

9 **Sec. 5.** NRS 179.275 is hereby amended to read as follows:

10 179.275 Where the court orders the sealing of a record
11 pursuant to NRS 34.970, 174.034, 176.211, 176A.245, 176A.265,
12 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 179.271,
13 201.354 or 453.3365 **or section 1 of this act**, a copy of the order
14 must be sent to:

15 1. The Central Repository for Nevada Records of Criminal
16 History; and

17 2. Each agency of criminal justice and each public or private
18 company, agency, official or other custodian of records named in
19 the order, and that person shall seal the records in his or her custody
20 which relate to the matters contained in the order, shall advise the
21 court of compliance and shall then seal the order.

22 **Sec. 6.** NRS 179.285 is hereby amended to read as follows:

23 179.285 Except as otherwise provided in NRS 179.301:

24 1. If the court orders a record sealed pursuant to NRS 34.970,
25 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
26 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
27 453.3365 **or section 1 of this act**:

28 (a) All proceedings recounted in the record are deemed never to
29 have occurred, and the person to whom the order pertains may
30 properly answer accordingly to any inquiry, including, without
31 limitation, an inquiry relating to an application for employment,
32 concerning the arrest, conviction, dismissal or acquittal and the
33 events and proceedings relating to the arrest, conviction, dismissal
34 or acquittal.

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

- 37 (1) The right to vote;
38 (2) The right to hold office; and
39 (3) The right to serve on a jury.

40 2. Upon the sealing of the person's records, **except if the**
41 **person's records were sealed pursuant to section 1 of this act**, a
42 person who is restored to his or her civil rights pursuant to
43 subsection 1 must be given:



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

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

8 3. ~~[A]~~ *If a* person ~~[who]~~ has had his or her records sealed in
9 this State or any other state and ~~[whose]~~ *was not given* official
10 documentation of the restoration of civil rights *or if that*
11 *documentation* is lost, damaged or destroyed, *the person* may file a
12 written request with a court of competent jurisdiction to restore his
13 or her civil rights pursuant to this section. Upon verification that the
14 person has had his or her records sealed, the court shall issue an
15 order restoring the person to the civil rights to vote, to hold office
16 and to serve on a jury. A person must not be required to pay a fee to
17 receive such an order.

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

23 **Sec. 7.** NRS 179.295 is hereby amended to read as follows:

24 179.295 1. The person who is the subject of the records that
25 are sealed pursuant to NRS 34.970, 174.034, 176.211, 176A.245,
26 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,
27 179.2595, 179.271, 201.354 or 453.3365 *or section 1 of this act*
28 may petition the court that ordered the records sealed to permit
29 inspection of the records by a person named in the petition, and the
30 court may order such inspection. Except as otherwise provided in
31 this section, subsection 9 of NRS 179.255 and NRS 179.259 and
32 179.301, the court may not order the inspection of the records under
33 any other circumstances.

34 2. If a person has been arrested, the charges have been
35 dismissed and the records of the arrest have been sealed, the court
36 may order the inspection of the records by a prosecuting attorney
37 upon a showing that as a result of newly discovered evidence, the
38 person has been arrested for the same or a similar offense and that
39 there is sufficient evidence reasonably to conclude that the person
40 will stand trial for the offense.

41 3. The court may, upon the application of a prosecuting
42 attorney or an attorney representing a defendant in a criminal action,
43 order an inspection of such records for the purpose of obtaining
44 information relating to persons who were involved in the incident
45 recorded.



1 4. This section does not prohibit a court from considering a
2 proceeding for which records have been sealed pursuant to NRS
3 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
4 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
5 453.3365 *or section 1 of this act* in determining whether to grant a
6 petition pursuant to NRS 176.211, 176A.245, 176A.265, 176A.295,
7 179.245, 179.255, 179.259, 179.2595 or 453.3365 for a conviction
8 of another offense.

9 **Sec. 8.** NRS 179.301 is hereby amended to read as follows:

10 179.301 1. The Nevada Gaming Control Board and the
11 Nevada Gaming Commission and their employees, agents and
12 representatives may inquire into and inspect any records sealed
13 pursuant to NRS 179.245 or 179.255, *or section 1 of this act*, if the
14 event or conviction was related to gaming, to determine the
15 suitability or qualifications of any person to hold a state gaming
16 license, manufacturer's, seller's or distributor's license or
17 registration as a gaming employee pursuant to chapter 463 of NRS.
18 Events and convictions, if any, which are the subject of an order
19 sealing records:

20 (a) May form the basis for recommendation, denial or
21 revocation of those licenses.

22 (b) Must not form the basis for denial or rejection of a gaming
23 work permit unless the event or conviction relates to the applicant's
24 suitability or qualifications to hold the work permit.

25 2. The Division of Insurance of the Department of Business
26 and Industry and its employees may inquire into and inspect any
27 records sealed pursuant to NRS 179.245 or 179.255, *or section 1 of*
28 *this act*, if the event or conviction was related to insurance, to
29 determine the suitability or qualifications of any person to hold a
30 license, certification or authorization issued in accordance with title
31 57 of NRS. Events and convictions, if any, which are the subject of
32 an order sealing records may form the basis for recommendation,
33 denial or revocation of those licenses, certifications and
34 authorizations.

35 3. A prosecuting attorney may inquire into and inspect any
36 records sealed pursuant to NRS 179.245 or 179.255 *or section 1 of*
37 *this act* if:

38 (a) The records relate to a violation or alleged violation of NRS
39 202.485; and

40 (b) The person who is the subject of the records has been
41 arrested or issued a citation for violating NRS 202.485.

42 4. The Central Repository for Nevada Records of Criminal
43 History and its employees may inquire into and inspect any records
44 sealed pursuant to NRS 179.245 or 179.255 *or section 1 of this act*
45 that constitute information relating to sexual offenses, and may



1 notify employers of the information in accordance with federal laws
2 and regulations.

3 5. Records which have been sealed pursuant to NRS 179.245
4 or 179.255 *or section 1 of this act* and which are retained in the
5 statewide registry established pursuant to NRS 179B.200 may be
6 inspected pursuant to chapter 179B of NRS by an officer or
7 employee of the Central Repository for Nevada Records of Criminal
8 History or a law enforcement officer in the regular course of his or
9 her duties.

10 6. The State Board of Pardons Commissioners and its agents
11 and representatives may inquire into and inspect any records sealed
12 pursuant to NRS 179.245 or 179.255 *or section 1 of this act* if the
13 person who is the subject of the records has applied for a pardon
14 from the Board.

15 7. As used in this section:

16 (a) "Information relating to sexual offenses" means information
17 contained in or concerning a record relating in any way to a sexual
18 offense.

19 (b) "Sexual offense" has the meaning ascribed to it in
20 NRS 179A.073.

21 **Sec. 9.** 1. This section becomes effective upon passage and
22 approval.

23 2. Sections 1 to 8, inclusive, of this act become effective:

24 (a) Upon passage and approval for the purpose of adopting any
25 regulations and performing any other preparatory administrative
26 tasks that are necessary to carry out the provisions of this act; and

27 (b) On January 1, 2024, for all other purposes.

