

SENATE BILL NO. 125—SENATOR FORD

PREFILED FEBRUARY 13, 2017

JOINT SPONSOR: ASSEMBLYMAN FRIERSON

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of criminal records. (BDR 14-20)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising provisions governing the sealing of the criminal records of a person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a person to petition the court in certain circumstances
2 for the sealing of all records of criminal history relating to a conviction of a crime.
3 (NRS 179.245) **Section 4** of this bill revises the waiting period for a person
4 convicted of certain crimes before being authorized to petition the court for sealing
5 of his or her records of criminal history relating to the conviction.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** NRS 179.245 is hereby amended to read as follows:

5 179.245 1. Except as otherwise provided in subsection 5 and
6 NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a
7 person may petition the court in which the person was convicted for
8 the sealing of all records relating to a conviction of:

9 (a) A category A ~~for-B~~ felony , *a crime of violence or a*
10 *burglary of a residence*, after ~~15~~ 10 years from the date of release



1 from actual custody or discharge from parole or probation,
2 whichever occurs later;

3 (b) ~~1A~~ *Except as otherwise provided in paragraphs (a) and (e),*
4 *a category B, C or D felony after ~~12~~ 5 years from the date of*
5 *release from actual custody or discharge from parole or probation,*
6 *whichever occurs later;*

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

10 (d) Except as otherwise provided in paragraph (e), any gross
11 misdemeanor after ~~1~~ 2 years from the date of release from actual
12 custody or discharge from probation, whichever occurs later;

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

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

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

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

31 (a) Be accompanied by the petitioner's current, verified records
32 received from:

33 (1) The Central Repository for Nevada Records of Criminal
34 History; and

35 (2) All agencies of criminal justice which maintain such
36 records within the city or county in which the conviction was
37 entered;

38 (b) If the petition references NRS 453.3365 or 458.330, include
39 a certificate of acknowledgment or the disposition of the
40 proceedings for the records to be sealed from all agencies of
41 criminal justice which maintain such records;

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



(d) 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 conviction to which the records to be sealed pertain; and

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

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

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation ~~[-, the California Bureau of Criminal Identification and Information]~~ and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

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

(a) A crime against a child;

(b) A sexual offense;

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

(d) A violation of NRS 484C.430;

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

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

(g) A violation of NRS 488.420 or 488.425.



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

7. As used in this section ~~†~~ , *unless the context otherwise requires:*

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

(b) *"Crime of violence" means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.*

(c) *"Harassment" means a violation of NRS 200.571.*

(d) *"Residence" means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.*

(e) "Sexual offense" means:

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

(2) Sexual assault pursuant to NRS 200.366.

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

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

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

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

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

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

(9) Incest pursuant to NRS 201.180.

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

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

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

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



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

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

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

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

(f) "Stalking" means a violation of NRS 200.575.

Sec. 5. (Deleted by amendment.)

Sec. 5.5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

