

SENATE BILL NO. 453—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal procedure.
(BDR 14-84)

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 procedure; authorizing a person who was dishonorably discharged from probation to apply to a court for the sealing of records of criminal history relating to the conviction; revising various provisions relating to the filing of petitions for the sealing of records of criminal history; requiring an agency of criminal justice to remove certain records from a record of criminal history before dissemination of the record in certain circumstances; revising provisions relating to the sealing of records of persons convicted of the unlawful possession of a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who is granted an honorable discharge from probation to apply to the court for the sealing of records relating to the conviction. (NRS 176A.850) Existing law also provides that a person who is given a dishonorable discharge from probation is not entitled to such a privilege. (NRS 176A.870) **Section 1** of this bill authorizes a person who is given a dishonorable discharge from probation to apply to the court for the sealing of records relating to the conviction if he or she is otherwise eligible to have the records sealed.

Existing law authorizes a person who was convicted of certain offenses or who was arrested for alleged criminal conduct but the charges against the person were dismissed, the prosecuting attorney declined prosecution of the charges or the person was acquitted of the charges to petition the court in which the person was convicted or in which the charges were dismissed or declined for prosecution or the acquittal was entered for the sealing of all records relating to the conviction or the arrest and proceedings leading to the dismissal, declination or acquittal, as applicable. Existing law also: (1) generally requires a person to wait a specified number of years, depending on the offense, until he or she may petition the court



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for the sealing of such records; and (2) requires a petition to be accompanied by the person's current, verified records received from the Central Repository for Nevada Records of Criminal History and all agencies of criminal justice which maintain such records within the city or county in which the petitioner appeared in court. (NRS 179.245, 179.255) **Sections 7 and 8** of this bill: (1) reduce the length of certain periods that a person is required to wait before petitioning a court for the sealing of records; and (2) remove the requirement that a petition be accompanied by the petitioner's current, verified records received from local agencies of criminal justice. **Sections 7 and 8** also provide that if the prosecuting attorney stipulates to the sealing of the records and the court makes certain findings, the court is authorized to order the records sealed without a hearing.

Existing law also authorizes the sealing of the records of a person who completes a correctional or judicial program for reentry into the community 5 years after the completion of the program. (NRS 179.259) **Section 9** of this bill reduces such a period to 4 years.

Section 4 of this bill provides that upon the filing of a petition for the sealing of records, there is a rebuttable presumption that the records should be sealed if the applicant satisfies all statutory requirements for the sealing of the records.

Section 5 of this bill authorizes a person to file a petition for the sealing of records in district court if the person wishes to have more than one record sealed and would otherwise need to file a petition in more than one court. **Section 5** also authorizes the district court to order the sealing of any records in the justice or municipal courts in certain circumstances.

Existing law provides for the dissemination of records of criminal history by agencies of criminal justice in certain circumstances. (NRS 179A.090, 179A.100) **Section 13** of this bill requires that before an agency of criminal justice disseminates any record to a person or entity other than another agency of criminal justice, the agency of criminal justice must remove any record of a conviction of a category E felony, gross misdemeanor or certain misdemeanors if a certain amount of time has passed since the person was released from actual custody, discharged from parole or probation or was no longer under a suspended sentence, whichever occurred later.

Existing law provides that, unless a greater penalty is otherwise provided, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and is punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years. (NRS 453.336) If a person is convicted of this offense, existing law authorizes the court to seal the person's records relating to the conviction if, 3 years after the conviction and sentence: (1) the person fulfills the terms and conditions imposed by the court and the person's parole and probation officer; and (2) the court, after a hearing, is satisfied that the person is rehabilitated. (NRS 453.3365) **Section 16** of this bill removes this provision and, instead, requires a court to seal a person's records relating to a conviction for this offense only if: (1) the person is assigned to an educational program or a treatment program; and (2) the person fulfills the terms and conditions imposed by the court and the Division of Parole and Probation of the Department of Public Safety.



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

Section 1. NRS 176A.870 is hereby amended to read as follows:

176A.870 *1.* A defendant whose term of probation has expired and:

~~1-1~~ (a) Whose whereabouts are unknown;

~~1-2~~ (b) Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or

~~1-3~~ (c) Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,

➔ is not eligible for an honorable discharge and must be given a dishonorable discharge.

2. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution which is enforceable pursuant to NRS 176.275. ~~1-1~~

3. A defendant who is given a dishonorable discharge pursuant to this section may, if he or she meets the requirements of NRS 179.245, apply to the court for the sealing of records relating to the conviction but ~~1-1~~ is otherwise not ~~1-1~~ entitled the probationer entitled to any privilege conferred by NRS 176A.850.

Sec. 2. Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. *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 179.241 to 179.301, inclusive and sections 3, 4 and 5 of this act.*

Sec. 4. *Upon the filing of a petition for the sealing of records pursuant to NRS 179.245, 179.255 or 179.259 or section 5 of this act, there is a rebuttable presumption that the records should be sealed if the applicant satisfies all statutory requirements for the sealing of the records.*

Sec. 5. *Notwithstanding the procedure established in NRS 179.245, 179.255 or 179.259 for the filing of a petition for the sealing of records:*

1. If a person wishes to have more than one record sealed and would otherwise need to file a petition in more than one court for the sealing of the records, the person may, instead of filing a petition in each court, file a petition in district court for the sealing of all such records.

2. If a person files a petition for the sealing of records in district court pursuant to subsection 1 or NRS 179.245, 179.255



1 *or 179.259, the district court may order the sealing of any other*
2 *records in the justice or municipal courts in accordance with the*
3 *provisions of NRS 179.241 to 179.301, inclusive, and sections 3, 4*
4 *and 5 of this act.*

5 **Sec. 6.** NRS 179.241 is hereby amended to read as follows:

6 179.241 As used in NRS 179.241 to 179.301, inclusive, *and*
7 *sections 3, 4 and 5 of this act*, unless the context otherwise requires,
8 the words and terms defined in NRS 179.242, 179.243 and 179.244
9 have the meanings ascribed to them in those sections.

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

11 179.245 1. Except as otherwise provided in subsection ~~151~~ *6*
12 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a
13 person may petition the court in which the person was convicted for
14 the sealing of all records relating to a conviction of:

15 (a) A category A ~~for-B~~ felony, *a crime of violence or a*
16 *burglary of a residence*, after ~~151~~ *10* years from the date of release
17 from actual custody or discharge from parole or probation,
18 whichever occurs later;

19 (b) ~~1A1~~ *Except as otherwise provided in paragraphs (a) and (e),*
20 *a category B, C or D felony after 121 5 years from the date of*
21 *release from actual custody or discharge from parole or probation,*
22 *whichever occurs later;*

23 (c) A category E felony after ~~171~~ *2* years from the date of release
24 from actual custody or discharge from parole or probation,
25 whichever occurs later;

26 (d) Except as otherwise provided in paragraph (e), any gross
27 misdemeanor after ~~151~~ *2* years from the date of release from actual
28 custody or discharge from probation, whichever occurs later;

29 (e) A violation of NRS 422.540 to 422.570, inclusive, ~~101~~
30 ~~than a felony,~~ a violation of NRS 484C.110 or 484C.120 other than
31 a felony, or a battery which constitutes domestic violence pursuant
32 to NRS 33.018 other than a felony, after 7 years from the date of
33 release from actual custody or from the date when the person is no
34 longer under a suspended sentence, whichever occurs later; ~~101~~

35 (f) *Except as otherwise provided in paragraph (e), a*
36 *misdemeanor for battery pursuant to NRS 200.481, a*
37 *misdemeanor for harassment, a misdemeanor for stalking or*
38 *a misdemeanor for a violation of a temporary or extended order*
39 *for protection against harassment or stalking, 2 years after the*
40 *date of release from actual custody or after the date when the*
41 *person is no longer under a suspended sentence, whichever occurs*
42 *later; or*

43 (g) Any other misdemeanor after ~~12-years~~ *1 year* from the date
44 of release from actual custody or from the date when the person is
45 no longer under a suspended sentence, whichever occurs later.



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2. A petition filed pursuant to subsection 1 must:

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

~~(1) The~~ the Central Repository for Nevada Records of Criminal History; ~~and~~

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

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

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to 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~~ any hearing on the petition.

4. If the prosecuting attorney who prosecuted the petitioner for the crime stipulates to the sealing of the records after receiving notification pursuant to subsection 3 and the court makes the findings set forth in subsection 5, the court may order the sealing of the records in accordance with subsection 5 without a hearing. If the prosecuting attorney does not stipulate to the sealing of the records, a hearing on the petition must be conducted.

5. 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



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1 of Nevada, and may also order all such records of the petitioner
2 returned to the file of the court where the proceeding was
3 commenced from, including, without limitation, the Federal Bureau
4 of Investigation, the California Bureau of Criminal Identification
5 and Information and all other agencies of criminal justice which
6 maintain such records and which are reasonably known by either the
7 petitioner or the court to have possession of such records.

8 ~~15-1~~ 6. A person may not petition the court to seal records
9 relating to a conviction of:

10 (a) A crime against a child;

11 (b) A sexual offense;

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

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

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

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

22 (g) A violation of NRS 488.420 or 488.425.

23 ~~16-1~~ 7. If the court grants a petition for the sealing of records
24 pursuant to this section, upon the request of the person whose
25 records are sealed, the court may order sealed all records of the civil
26 proceeding in which the records were sealed.

27 ~~17-1~~ 8. As used in this section:

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

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

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

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

37 (e) "Sexual offense" means:

38 (1) Murder of the first degree committed in the perpetration
39 or attempted perpetration of sexual assault or of sexual abuse or
40 sexual molestation of a child less than 14 years of age pursuant to
41 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
44 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.

(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. 8. NRS 179.255 is hereby amended to read as follows:

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

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

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

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

(2) Any time ~~10~~ 8 years after the arrest; or

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



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

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

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

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

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

~~(1) The~~ *the* Central Repository for Nevada Records of Criminal History; ~~and~~

~~(2) All agencies of criminal justice which maintain such records within the city or county in which the petitioner appeared in court;~~

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

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

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

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

(1) Date of birth of the petitioner;

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

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

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

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



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

➔ The prosecuting attorney and any person having relevant evidence may testify and present evidence at ~~the~~ any hearing on the petition.

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

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

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

➔ The prosecuting attorney and any person having relevant evidence may testify and present evidence at ~~the~~ any hearing on the petition.

6. *If the prosecuting attorney stipulates to the sealing of the records after receiving notification pursuant to subsection 4 or 5 and the court makes the findings set forth in subsection 7 or 8, as applicable, the court may order the sealing of the records in accordance with subsection 7 or 8, as applicable, without a hearing. If the prosecuting attorney does not stipulate to the sealing of the records, a hearing on the petition must be conducted.*

7. If ~~after the hearing on a petition submitted pursuant to subsection 1,~~ the court finds that there has been an acquittal, that the prosecution was declined or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal, declination or dismissal which are in the custody of any agency of criminal justice or any public or private company, agency, official or other custodian of records in the State of Nevada.

~~7.~~ 8. If ~~after the hearing on a petition submitted pursuant to subsection 2,~~ the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of any agency of criminal justice or any public or private company, agency, official or other custodian of records in the State of Nevada.

~~8.~~ 9. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed pursuant to subsection ~~6,~~ 7, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the



1 inspection of the records without the prosecuting attorney having to
2 petition the court pursuant to NRS 179.295.

3 **Sec. 9.** NRS 179.259 is hereby amended to read as follows:

4 179.259 1. Except as otherwise provided in subsections 3, 4
5 and 5, ~~15~~ 4 years after an eligible person completes a program for
6 reentry, the court may order sealed all documents, papers and
7 exhibits in the eligible person's record, minute book entries and
8 entries on dockets, and other documents relating to the case in the
9 custody of such other agencies and officers as are named in the
10 court's order. The court may order those records sealed without a
11 hearing unless the Division of Parole and Probation of the
12 Department of Public Safety petitions the court, for good cause
13 shown, not to seal the records and requests a hearing thereon.

14 2. If the court orders sealed the record of an eligible person, the
15 court shall send a copy of the order to each agency or officer named
16 in the order. Each such agency or officer shall notify the court in
17 writing of its compliance with the order.

18 3. A professional licensing board is entitled, for the purpose of
19 determining suitability for a license or liability to discipline for
20 misconduct, to inspect and to copy from a record sealed pursuant to
21 this section.

22 4. The Division of Insurance of the Department of Business
23 and Industry is entitled, for the purpose of determining suitability
24 for a license or liability to discipline for misconduct, to inspect and
25 to copy from a record sealed pursuant to this section.

26 5. A person may not petition the court to seal records relating
27 to a conviction of a crime against a child or a sexual offense.

28 6. As used in this section:

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

31 (b) "Eligible person" means a person who has:

32 (1) Successfully completed a program for reentry, which the
33 person participated in pursuant to NRS 209.4886, 209.4888,
34 213.625 or 213.632; and

35 (2) Been convicted of a single offense which was punishable
36 as a felony and which did not involve the use or threatened use of
37 force or violence against the victim. For the purposes of this
38 subparagraph, multiple convictions for an offense punishable as a
39 felony shall be deemed to constitute a single offense if those
40 offenses arose out of the same transaction or occurrence.

41 (c) "Program for reentry" means:

42 (1) A correctional program for reentry of offenders and
43 parolees into the community that is established by the Director of
44 the Department of Corrections pursuant to NRS 209.4887; or



(2) A judicial program for reentry of offenders and parolees into the community that is established in a judicial district pursuant to NRS 209.4883.

(d) "Sexual offense" has the meaning ascribed to it in paragraph ~~(b)~~ (e) of subsection ~~7~~ 8 of NRS 179.245.

Sec. 10. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, *or section 5 of this act*, a copy of the order must be sent to:

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

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

Sec. 11. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 ~~(1)~~ *or section 5 of this act*:

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

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

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

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

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

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



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3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

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

Sec. 12. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 5 of this act* may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection ~~18~~ 9 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

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

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

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 5 of this act* in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 5 of this act* for a conviction of another offense.



1 **Sec. 13.** Chapter 179A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Before an agency of criminal justice disseminates any record of*
4 *criminal history to a person or entity other than another agency of*
5 *criminal justice pursuant to the provisions of this chapter, the*
6 *agency of criminal justice must remove any record of:*

7 1. *A conviction of a category E felony or gross misdemeanor*
8 *for which the date of release from actual custody or discharge*
9 *from parole or probation, whichever occurred later, was 10 or*
10 *more years before the date of dissemination.*

11 2. *Except as otherwise provided in subsection 3, a conviction*
12 *of a misdemeanor for which the date of release from actual*
13 *custody or the date on which the person was no longer under a*
14 *suspended sentence, whichever occurred later, was 5 or more*
15 *years before the date of dissemination.*

16 3. *The provisions of subsection 2 do not apply to a*
17 *misdemeanor for an act which constitutes domestic violence*
18 *pursuant to NRS 33.018 or a violation of NRS 484C.110,*
19 *484C.120 or 484C.130.*

20 **Sec. 14.** NRS 179A.030 is hereby amended to read as follows:

21 179A.030 "Agency of criminal justice" means:

22 1. Any court; and

23 2. Any governmental agency or subunit of any governmental
24 agency which performs a function in the administration of criminal
25 justice pursuant to a statute or executive order, and which allocates a
26 substantial part of its budget to a function in the administration of
27 criminal justice **H**, *including, without limitation, a local law*
28 *enforcement agency, the Nevada Highway Patrol, the Division of*
29 *Parole and Probation of the Department of Public Safety and the*
30 *Department of Corrections.*

31 **Sec. 15.** NRS 179A.100 is hereby amended to read as follows:

32 179A.100 *Subject to the requirements set forth in section 13*
33 *of this act:*

34 1. The following records of criminal history may be
35 disseminated by an agency of criminal justice without any
36 restriction pursuant to this chapter:

37 (a) Any which reflect records of conviction only; and

38 (b) Any which pertain to an incident for which a person is
39 currently within the system of criminal justice, including parole or
40 probation.

41 2. Without any restriction pursuant to this chapter, a record of
42 criminal history or the absence of such a record may be:

43 (a) Disclosed among agencies which maintain a system for the
44 mutual exchange of criminal records.



(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives written consent to the release of that information if the employer submits a request in the manner set



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1 forth in NRS 179A.200 for obtaining a notice of information. The
2 Central Repository shall search for and disseminate such
3 information in the manner set forth in NRS 179A.210 for the
4 dissemination of a notice of information.

5 6. Except as otherwise provided in subsection 5, the provisions
6 of NRS 179A.180 to 179A.240, inclusive, do not apply to an
7 employer who requests information and to whom such information
8 is disseminated pursuant to subsections 4 and 5.

9 7. Records of criminal history must be disseminated by an
10 agency of criminal justice, upon request, to the following persons or
11 governmental entities:

12 (a) The person who is the subject of the record of criminal
13 history for the purposes of NRS 179A.150.

14 (b) The person who is the subject of the record of criminal
15 history when the subject is a party in a judicial, administrative,
16 licensing, disciplinary or other proceeding to which the information
17 is relevant.

18 (c) The Nevada Gaming Control Board.

19 (d) The State Board of Nursing.

20 (e) The Private Investigator's Licensing Board to investigate an
21 applicant for a license.

22 (f) A public administrator to carry out the duties as prescribed in
23 chapter 253 of NRS.

24 (g) A public guardian to investigate a ward or proposed ward or
25 persons who may have knowledge of assets belonging to a ward or
26 proposed ward.

27 (h) Any agency of criminal justice of the United States or of
28 another state or the District of Columbia.

29 (i) Any public utility subject to the jurisdiction of the Public
30 Utilities Commission of Nevada when the information is necessary
31 to conduct a security investigation of an employee or prospective
32 employee or to protect the public health, safety or welfare.

33 (j) Persons and agencies authorized by statute, ordinance,
34 executive order, court rule, court decision or court order as
35 construed by appropriate state or local officers or agencies.

36 (k) Any person or governmental entity which has entered into a
37 contract to provide services to an agency of criminal justice relating
38 to the administration of criminal justice, if authorized by the
39 contract, and if the contract also specifies that the information will
40 be used only for stated purposes and that it will be otherwise
41 confidential in accordance with state and federal law and regulation.

42 (l) Any reporter for the electronic or printed media in a
43 professional capacity for communication to the public.



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(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

(x) The Board of Examiners for Social Workers.

(y) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 16. NRS 453.3365 is hereby amended to read as follows:

453.3365 1. ~~{Three years after a person is convicted and sentenced pursuant to subsection 3 of NRS 453.336, the court may order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order, if the:~~

~~—(a) Person fulfills the terms and conditions imposed by the court and the parole and probation officer; and~~



~~1 (b) Court, after a hearing, is satisfied that the person is~~
~~2 rehabilitated.~~

~~3 2.~~ Except as limited by subsection ~~4, 3~~, after an accused is
4 discharged from probation pursuant to NRS 453.3363, the court
5 shall order sealed all documents, papers and exhibits in that person's
6 record, minute book entries and entries on dockets, and other
7 documents relating to the case in the custody of such other agencies
8 and officers as are named in the court's order if the person fulfills
9 the terms and conditions imposed by the court and the Division of
10 Parole and Probation of the Department of Public Safety. The court
11 shall order those records sealed without a hearing unless the
12 Division of Parole and Probation petitions the court, for good cause
13 shown, not to seal the records and requests a hearing thereon.

~~13 1.~~ If the court orders sealed the record of a person
14 discharged pursuant to NRS 453.3363, it shall cause a copy of the
15 order to be sent to each agency or officer named in the order. Each
16 such agency or officer shall notify the court in writing of its
17 compliance with the order.

~~18 1.~~ A professional licensing board is entitled, for the
19 purpose of determining suitability for a license or liability to
20 discipline for misconduct, to inspect and to copy from a record
21 sealed pursuant to this section.

Sec. 17. 1. The amendatory provisions of sections 7 and 8 of
22 this act apply to a petition for the sealing of a record of criminal
23 history that is filed on or after October 1, 2017. As used in this
24 section, "record of criminal history" has the meaning ascribed to it
25 in NRS 179A.070.

2. The amendatory provisions of NRS 453.3365, as amended
26 by section 16 of this act, apply to a person convicted and sentenced
27 pursuant to subsection 3 of NRS 453.336 on or after October 1,
28 2017.

