

ASSEMBLY BILL NO. 315—ASSEMBLYMEN ASSEFA, MILLER, MUNK,
FUMO; BILBRAY-AXELROD, FLORES, NEAL AND TORRES

MARCH 18, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to records of criminal history. (BDR 14-831)

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 records of criminal history; requiring the court to order certain records of criminal history sealed; revising various provisions relating to the filing of petitions for the sealing of records of criminal history; requiring a prosecutor to notify the court of charges declined for prosecution in certain circumstances; making it an unlawful employment practice for an employer to consider the criminal history of an applicant for employment under certain circumstances; establishing procedures for considering the criminal history of an applicant for employment; authorizing the filing of a complaint with the Nevada Equal Rights Commission under certain circumstances; repealing certain provisions relating to the filing of petitions for the sealing of records of criminal history; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes certain persons who: (1) are discharged from probation;
2 (2) are convicted of certain offenses, after waiting a specified number of years
3 depending on the offense; (3) successfully complete certain reentry programs; or
4 (4) are convicted of possession of a controlled substance not for purpose of sale, to
5 petition the court for the sealing of certain records of criminal history. (NRS
6 176A.850, 179.245, 179.259, 453.3365) **Sections 1, 5, 7, 8 and 13** of this bill
7 remove the requirement for such a person to file a petition and instead provide that
8 the records are sealed automatically.



Existing law provides that under certain circumstances and upon the filing of a petition for the sealing of records of criminal history, there is a rebuttable presumption that the records should be sealed if the applicant satisfies the statutory requirements. (NRS 179.2445) **Section 22** of this bill repeals: (1) the rebuttable presumption in favor of sealing records of criminal history, as such records will be sealed automatically pursuant to **sections 1, 5, 7, 8 and 13**; and (2) certain other provisions relating to the sealing of such records.

Section 2 of this bill requires: (1) a prosecuting attorney having jurisdiction to notify the court that the charges are declined for prosecution if an indictment has not been found or an information or complaint filed within 90 days after an arrest for certain misdemeanor offenses; (2) a prosecuting attorney having jurisdiction to notify the court if the prosecuting attorney determines that the person arrested is not the perpetrator of the offense; and (3) the court to order the sealing of all records of criminal history upon receipt of such notice. **Sections 3, 4 and 9-12** of this bill make conforming changes.

Existing law authorizes a person who was arrested for alleged criminal conduct but the charges were dismissed, the prosecuting attorney declined prosecution or the person was acquitted, or a person whose conviction was set aside, to petition the court in which the charges were dismissed, declined, the acquittal was entered or the conviction was set aside for the sealing of all records relating to the arrest and the proceedings leading to the dismissal, declination, acquittal or the setting aside of the conviction. (NRS 179.255) **Section 6** of this bill instead requires the prosecuting attorney to petition the court and requires the court to grant such a petition.

Existing law provides that, with certain exceptions, the criminal history of an applicant or other qualified person under consideration for employment with certain public employers may only be considered after the earlier of: (1) the final interview conducted in person; or (2) a conditional offer of employment. Existing law also sets forth specific factors that are required to be considered by certain public employers before the criminal history of an applicant may be used as the basis for rescinding a conditional offer of employment or rejection of the applicant. (NRS 245.046, 268.402, 269.0802, 284.281, 284.283) Existing law makes it an unlawful employment practice if certain public employers fail to follow such procedure and authorizes a person injured by such a practice to file a complaint with the Nevada Equal Rights Commission. (NRS 613.330, 613.405) **Sections 14 and 20** of this bill establish similar provisions governing the consideration of the criminal history of an applicant by a private employer. **Sections 15-19 and 21** of this bill make conforming changes.

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

Section 1. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,



1 ➤ may be granted an honorable discharge from probation by order
2 of the court.

3 2. A person whose term of probation has expired and:

4 (a) Whose whereabouts are unknown;

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

7 (c) Who has otherwise failed to qualify for an honorable
8 discharge as provided in subsection 1,

9 ➤ is not eligible for an honorable discharge and must be given a
10 dishonorable discharge. A dishonorable discharge releases the
11 person from any further obligation, except as otherwise provided in
12 subsection 3.

13 3. Any amount of restitution remaining unpaid constitutes a
14 civil liability arising upon the date of discharge and is enforceable
15 pursuant to NRS 176.275.

16 4. Except as otherwise provided in subsection 5, a person who
17 has been discharged from probation:

18 (a) Is free from the terms and conditions of probation.

19 (b) Is immediately restored to the right to serve as a juror in a
20 civil action.

21 (c) Except as otherwise provided in paragraph (d), is
22 immediately restored to the right to vote.

23 (d) Two years after the date of discharge from probation, is
24 restored to the right to vote if the person has previously been
25 convicted in this State:

26 (1) Of a category B felony involving the use of force or
27 violence.

28 (2) Of an offense involving the use of force or violence that
29 would constitute a category B felony if committed as of the date of
30 discharge from probation.

31 (e) Four years after the date of discharge from probation, is
32 restored to the right to hold office.

33 (f) Six years after the date of discharge from probation, is
34 restored to the right to serve as a juror in a criminal action.

35 (g) If the person meets the requirements of NRS 179.245, ~~It may~~
36 ~~apply to the court~~ **is automatically eligible** for the sealing of
37 records relating to the conviction. **The court shall order the sealing**
38 **of such records.**

39 (h) Must be informed of the provisions of this section and NRS
40 179.245 in the person's probation papers.

41 (i) Is exempt from the requirements of chapter 179C of NRS,
42 but is not exempt from the requirements of chapter 179D of NRS.

43 (j) Shall disclose the conviction to a gaming establishment and
44 to the State and its agencies, departments, boards, commissions and
45 political subdivisions, if required in an application for employment,



1 license or other permit. As used in this paragraph, "establishment"
2 has the meaning ascribed to it in NRS 463.0148.

3 (k) Except as otherwise provided in paragraph (j), need not
4 disclose the conviction to an employer or prospective employer.

5 5. Except as otherwise provided in this subsection, the civil
6 rights set forth in subsection 4 are not restored to a person
7 discharged from probation if the person has previously been
8 convicted in this State:

9 (a) Of a category A felony.

10 (b) Of an offense that would constitute a category A felony if
11 committed as of the date of discharge from probation.

12 (c) Of a category B felony involving the use of force or violence
13 that resulted in substantial bodily harm to the victim.

14 (d) Of an offense involving the use of force or violence that
15 resulted in substantial bodily harm to the victim and that would
16 constitute a category B felony if committed as of the date of
17 discharge from probation.

18 (e) Two or more times of a felony, unless a felony for which the
19 person has been convicted arose out of the same act, transaction or
20 occurrence as another felony, in which case the convictions for
21 those felonies shall be deemed to constitute a single conviction for
22 the purposes of this paragraph.

23 ➤ A person described in this subsection may petition a court of
24 competent jurisdiction for an order granting the restoration of civil
25 rights as set forth in subsection 4.

26 6. The prior conviction of a person who has been discharged
27 from probation may be used for purposes of impeachment. In any
28 subsequent prosecution of the person, the prior conviction may be
29 pleaded and proved if otherwise admissible.

30 7. Except for a person subject to the limitations set forth in
31 subsection 5, upon discharge from probation, the person so
32 discharged must be given an official document which provides:

33 (a) That the person has received an honorable discharge or
34 dishonorable discharge, as applicable, from probation;

35 (b) That the person is restored to his or her civil rights to vote
36 and to serve as a juror in a civil action as of the applicable dates set
37 forth in paragraphs (b), (c) and (d) of subsection 4;

38 (c) The date on which the person's civil right to hold office will
39 be restored pursuant to paragraph (e) of subsection 4; and

40 (d) The date on which the person's civil right to serve as a juror
41 in a criminal action will be restored pursuant to paragraph (f) of
42 subsection 4.

43 8. Subject to the limitations set forth in subsection 5, a person
44 who has been discharged from probation in this State or elsewhere
45 and whose official documentation of discharge from probation is



lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been discharged from probation and is eligible to be restored to the civil rights set forth in subsection 4, the court shall issue an order restoring the person to the civil rights set forth in subsection 4. A person must not be required to pay a fee to receive such an order.

9. A person who has been discharged from probation in this State or elsewhere may present:

(a) Official documentation of discharge from probation, if it contains the provisions set forth in subsection 7; or

(b) A court order restoring the person's civil rights, as proof that the person has been restored to the civil rights set forth in subsection 4.

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

1. Except as otherwise provided in subsection 2, unless an indictment has been found or an information or complaint has been filed, not later than 90 days after a person is arrested for an alleged misdemeanor, the prosecuting attorney having jurisdiction shall notify the court having jurisdiction that the charges are declined for prosecution.

2. This section does not apply to a misdemeanor constituting:

(a) A violation of NRS 422.540 to 422.570, inclusive;

(b) A violation of NRS 484C.110 or 484C.120;

(c) A battery which constitutes domestic violence pursuant to NRS 33.018;

(d) A battery pursuant to NRS 200.481;

(e) Harassment pursuant to NRS 200.571;

(f) Stalking pursuant to NRS 200.575; or

(g) A violation of a temporary or extended order for protection.

3. If a decision is made by the prosecuting attorney having jurisdiction that the person arrested for any offense is not the perpetrator of the alleged offense, the prosecuting attorney shall immediately notify the court.

4. Upon receipt of notice from the prosecuting attorney having jurisdiction pursuant to this section, the court shall order the sealing of all records of criminal history relating to the arrest.

5. If the prosecuting attorney having jurisdiction previously notified the court and the records of the arrest have been sealed pursuant to subsection 4, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations of those charges. If such charges are filed with the court, the court shall order the inspection of the records,



1 *without the prosecuting attorney having to petition the court*
2 *pursuant to NRS 179.295.*

3 *6. As used in this section, "record of criminal history" has*
4 *the meaning ascribed to it in NRS 179A.070.*

5 **Sec. 3.** NRS 179.2405 is hereby amended to read as follows:

6 179.2405 The Legislature hereby declares that the public
7 policy of this State is to favor the giving of second chances to
8 offenders who are rehabilitated and the sealing of the records of
9 such persons in accordance with NRS 179.2405 to 179.301,
10 inclusive ~~H~~, *and section 2 of this act.*

11 **Sec. 4.** NRS 179.241 is hereby amended to read as follows:

12 179.241 As used in NRS 179.2405 to 179.301, inclusive, *and*
13 *section 2 of this act*, unless the context otherwise requires, the
14 words and terms defined in NRS 179.242, 179.243 and 179.244
15 have the meanings ascribed to them in those sections.

16 **Sec. 5.** NRS 179.245 is hereby amended to read as follows:

17 179.245 1. Except as otherwise provided in subsection ~~6~~ **2**
18 and NRS 176A.265, 176A.295, 179.247, 179.259, 201.354,
19 453.3365 and 458.330, ~~if a person may petition the court in which the~~
20 ~~person was convicted for the sealing of~~ all records relating to a
21 conviction ~~of~~ *must be sealed automatically for:*

22 (a) A category A felony, a crime of violence pursuant to NRS
23 200.408 or burglary pursuant to NRS 205.060 after 10 years from
24 the date of release from actual custody or discharge from parole or
25 probation, whichever occurs later;

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

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

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

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

42 (f) Except as otherwise provided in paragraph (e), if the offense
43 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
44 harassment pursuant to NRS 200.571, stalking pursuant to NRS
45 200.575 or a violation of a temporary or extended order for



1 protection, after 2 years from the date of release from actual custody
2 or from the date when the person is no longer under a suspended
3 sentence, whichever occurs later; or

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

7 2. ~~1A petition filed pursuant to subsection 1 must:~~

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

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

15 ~~—(c) Include a list of any other public or private agency, company,~~
16 ~~official or other custodian of records that is reasonably known to the~~
17 ~~petitioner to have possession of records of the conviction and to~~
18 ~~whom the order to seal records, if issued, will be directed; and~~

19 ~~—(d) Include information that, to the best knowledge and belief of~~
20 ~~the petitioner, accurately and completely identifies the records to be~~
21 ~~sealed, including, without limitation, the:~~

22 ~~—(1) Date of birth of the petitioner;~~

23 ~~—(2) Specific conviction to which the records to be sealed~~
24 ~~pertain; and~~

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

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

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

41 ~~—5. If the court finds that, in the period prescribed in subsection~~
42 ~~1, the petitioner has not been charged with any offense for which the~~
43 ~~charges are pending or convicted of any offense, except for minor~~
44 ~~moving or standing traffic violations, the court may order sealed all~~
45 ~~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 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.~~

~~—6.—~~ A ~~person may~~ **court shall** 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.

~~[7.— If the court grants a petition for]~~

3. Upon the sealing of records pursuant to this section ~~[]~~ **and** 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.

~~[8.—]~~ **4.** As used in this section:

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

(b) “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.

(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.

Sec. 6. NRS 179.255 is hereby amended to read as follows:

179.255 1. ~~HH~~ *Except as otherwise provided in section 2 of this act, 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}~~ *prosecuting attorney shall* 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 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]~~ **shall seal** all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 ~~for 2]~~ must:

(a) Be accompanied by the ~~[petitioner's]~~ current, verified records **of the person whose records are sought to be sealed which must be** received from the Central Repository for Nevada Records of Criminal History;

(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]~~ **prosecuting attorney** 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]~~ **prosecuting attorney**, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the ~~[petitioner];~~ **person whose records are sought to be sealed;**

(2) Specific charges that were dismissed or of which the ~~[petitioner]~~ **person whose records are sought to be sealed** was acquitted; and

(3) Date of arrest relating to the specific charges that were dismissed or of which the ~~[petitioner]~~ **person whose records are sought to be sealed** was acquitted.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the ~~[petitioner]~~ **person whose records are sought to be sealed** 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

(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 any hearing on the petition.

5. Upon ~~[receiving a petition]~~ **sealing records** 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 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.} 6.~~ If 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.

~~{8.} 7.~~ If the court ~~{finds that the}~~ **sets aside a** conviction ~~{of the petitioner was set aside}~~ pursuant to NRS 458A.240, the court ~~{may}~~ **shall** 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.

~~{9.} 8.~~ If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed pursuant to subsection ~~{7.} 6,~~ 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 inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

Sec. 7. NRS 179.259 is hereby amended to read as follows:

179.259 1. Except as otherwise provided in subsections 3, 4 and 5, 4 years after an eligible person completes a program for reentry, the court ~~{may}~~ **shall** order sealed all documents, papers and exhibits in the eligible 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. The court ~~{may}~~ **shall** order those records sealed without a hearing unless the Division of Parole and Probation of the



Department of Public Safety petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

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

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

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

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

6. As used in this section:

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

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

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

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

(c) "Program for reentry" means:

(1) A correctional program for reentry of offenders and parolees into the community that is established by the Director of 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) of subsection ~~1~~ 4 of NRS 179.245.

Sec. 8. NRS 179.2595 is hereby amended to read as follows:

179.2595 **1.** Notwithstanding the procedure established in NRS 179.245, 179.255 or 179.259 **or section 2 of this act** for the ~~filing of a petition for the~~ sealing of records **:-**

~~1. If a person wishes to have more than one record~~ , **if the records of a person have not otherwise been** sealed and ~~would~~



~~otherwise need to file a petition~~ **such records may be** 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 or 179.259,]~~ the district court ~~[may]~~ **shall** order the sealing of any other records in the justice or municipal courts in accordance with the provisions of NRS 179.2405 to 179.301, inclusive ~~[,]~~ **and section 2 of this act.**

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

179.275 Where the court orders the sealing of a record pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or 458.330, **or section 2 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. 10. 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 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or 458.330 ~~[,]~~ **or section 2 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.

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. 11. 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 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or 458.330 *or section 2 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 ~~9~~ 8 of NRS 179.255 and NRS 179.259 and 179.301 ~~H~~ *and section 2 of this act*, 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 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or 458.330 *or section 2 of this act* in



determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 179.2595, 453.3365 or 458.330 **or section 2 of this act** for a conviction of another offense.

Sec. 12. NRS 179.301 is hereby amended to read as follows:

179.301 1. The Nevada Gaming Control Board and the Nevada Gaming Commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 **or section 2 of this act**, if the event or conviction was related to gaming, to determine the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or registration as a gaming employee pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records:

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

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

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

3. A prosecuting attorney may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 **or section 2 of this act** if:

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

(b) The person who is the subject of the records has been arrested or issued a citation for violating NRS 202.575.

4. The Central Repository for Nevada Records of Criminal History and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 **or section 2 of this act** that constitute information relating to sexual offenses, and may notify employers of the information in accordance with federal laws and regulations.

5. Records which have been sealed pursuant to NRS 179.245 or 179.255 **or section 2 of this act** and which are retained in the statewide registry established pursuant to NRS 179B.200 may be



1 inspected pursuant to chapter 179B of NRS by an officer or
2 employee of the Central Repository for Nevada Records of Criminal
3 History or a law enforcement officer in the regular course of his or
4 her duties.

5 6. The State Board of Pardons Commissioners and its agents
6 and representatives may inquire into and inspect any records sealed
7 pursuant to NRS 179.245 or 179.255 *or section 2 of this act* if the
8 person who is the subject of the records has applied for a pardon
9 from the Board.

10 7. As used in this section:

11 (a) "Information relating to sexual offenses" means information
12 contained in or concerning a record relating in any way to a sexual
13 offense.

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

16 **Sec. 13.** NRS 453.3365 is hereby amended to read as follows:
17 453.3365 1. Three years after a person is convicted and
18 sentenced pursuant to subsection 3 of NRS 453.336, the court ~~may~~
19 *shall* order sealed all documents, papers and exhibits in that
20 person's record, minute book entries and entries on dockets, and
21 other documents relating to the case in the custody of such other
22 agencies and officers as are named in the court's order, if the:

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

25 (b) Court, after a hearing, is satisfied that the person is
26 rehabilitated.

27 2. Except as limited by subsection 4, after an accused is
28 discharged from probation pursuant to NRS 453.3363, the court
29 shall order sealed all documents, papers and exhibits in that person's
30 record, minute book entries and entries on dockets, and other
31 documents relating to the case in the custody of such other agencies
32 and officers as are named in the court's order if the person fulfills
33 the terms and conditions imposed by the court and the Division of
34 Parole and Probation of the Department of Public Safety. The court
35 shall order those records sealed without a hearing unless the
36 Division of Parole and Probation petitions the court, for good cause
37 shown, not to seal the records and requests a hearing thereon.

38 3. If the court orders sealed the record of a person discharged
39 pursuant to NRS 453.3363, it shall cause a copy of the order to be
40 sent to each agency or officer named in the order. Each such agency
41 or officer shall notify the court in writing of its compliance with the
42 order.

43 4. A professional licensing board is entitled, for the purpose of
44 determining suitability for a license or liability to discipline for



misconduct, to inspect and to copy from a record sealed pursuant to this section.

Sec. 14. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is an unlawful employment practice for an employer to consider the criminal history of an applicant or other qualified person without following the procedure required pursuant to this section.

2. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the criminal history of an applicant may be considered only after the earlier of:

(a) The final interview conducted in person; or

(b) The employer has extended to the applicant a conditional offer of employment.

3. An employer may, before examining an applicant or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

4. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, an employer may rescind a conditional offer of employment extended to an otherwise qualified person who has criminal charges pending against him or her that were filed within the previous 6 months or has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense charged against the person or committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense charged against the person or committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the rehabilitation of the person.

5. An employer shall not consider any of the following criminal records in connection with an application for employment:



(a) Except as otherwise provided in subsection 4, an arrest of the applicant which did not result in a conviction;

(b) A record of a conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

6. If the criminal history of an applicant is used as a basis for rescinding a conditional offer of employment, rescission of the conditional offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rescission of the offer with the employer's officer who is responsible for human resources or his or her designee.

7. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The employer will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

Sec. 15. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.4383, inclusive, **and section 14 of this act**, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).



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3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 16. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 14 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 14 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 17. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.4383, inclusive, *and section 14 of this act* or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.4383, inclusive ~~14~~, *and section 14 of this act*.



2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 18. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a



1 disability would otherwise have been hired, classified, referred or
2 prepared under a training or retraining program.

3 3. It is not an unlawful employment practice for an employer to
4 fail or refuse to hire or to discharge a person, for an employment
5 agency to fail to classify or refer any person for employment, for a
6 labor organization to fail to classify its membership or to fail to
7 classify or refer any person for employment, or for an employer,
8 labor organization or joint labor-management committee controlling
9 apprenticeship or other training or retraining programs to fail to
10 admit or employ any person in any such program, on the basis of his
11 or her age if the person is less than 40 years of age.

12 4. It is not an unlawful employment practice for a school,
13 college, university or other educational institution or institution of
14 learning to hire and employ employees of a particular religion if the
15 school or institution is, in whole or in substantial part, owned,
16 supported, controlled or managed by a particular religion or by a
17 particular religious corporation, association or society, or if the
18 curriculum of the school or institution is directed toward the
19 propagation of a particular religion.

20 5. It is not an unlawful employment practice for an employer to
21 observe the terms of any bona fide plan for employees' benefits,
22 such as a retirement, pension or insurance plan, which is not a
23 subterfuge to evade the provisions of NRS 613.310 to 613.4383,
24 inclusive, *and section 14 of this act* as they relate to discrimination
25 against a person because of age, except that no such plan excuses
26 the failure to hire any person who is at least 40 years of age.

27 6. It is not an unlawful employment practice for an employer to
28 require employees to adhere to reasonable workplace appearance,
29 grooming and dress standards so long as such requirements are not
30 precluded by law, except that an employer shall allow an employee
31 to appear, groom and dress consistent with the employee's gender
32 identity or expression.

33 **Sec. 19.** NRS 613.390 is hereby amended to read as follows:

34 613.390 Nothing contained in NRS 613.310 to 613.4383,
35 inclusive, *and section 14 of this act* applies to any business or
36 enterprise on or near an Indian reservation with respect to any
37 publicly announced employment practice of such business or
38 enterprise under which a preferential treatment is given to any
39 individual because the individual is an Indian living on or near a
40 reservation.

41 **Sec. 20.** NRS 613.405 is hereby amended to read as follows:

42 613.405 1. Except as otherwise provided in subsection 2, any
43 person injured by an unlawful employment practice within the scope
44 of NRS 613.310 to 613.4383, inclusive, *and section 14 of this act*
45 may file a complaint to that effect with the Nevada Equal Rights



Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

2. Any person injured by an unlawful employment practice within the scope of subsection 8 of NRS 613.330 may file a complaint to that effect with the Nevada Equal Rights Commission regardless of whether the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

3. Any person injured by an unlawful employment practice within the scope of section 14 of this act may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on an employer's failure to comply with the provisions of section 14 of this act.

4. Any person injured by an unlawful employment practice within the scope of NRS 613.4353 to 613.4383, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on an employer's failure to comply with the provisions of NRS 613.4353 to 613.4383, inclusive.

Sec. 21. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.4383, inclusive, *and section 14 of this act* has occurred, any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections.

Sec. 22. NRS 179.2445 and 179.265 are hereby repealed.

TEXT OF REPEALED SECTIONS

179.2445 Rebuttable presumption that records should be sealed; exception.

1. Except as otherwise provided in subsection 2, upon the filing of a petition for the sealing of records pursuant to NRS 179.245, 179.255, 179.259 or 179.2595, there is a rebuttable presumption that the records should be sealed if the applicant satisfies all statutory requirements for the sealing of the records.

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



179.265 Rehearings after denial of petition: Time for; number.

1. A person whose petition is denied under NRS 179.245 or 179.255 may petition for a rehearing not sooner than 2 years after the denial of the previous petition.
2. No person may petition for more than two rehearings.

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