

Amendment No. 194

Assembly Amendment to Assembly Bill No. 192	(BDR 14-319)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 192—ASSEMBLYMEN MCCURDY, ASSEFA, YEAGER, FUMO, FLORES; BACKUS, CARRILLO, FRIERSON, MONROE-MORENO, MUNK, NGUYEN, SWANK, THOMPSON AND WATTS

FEBRUARY 18, 2019

JOINT SPONSORS: SENATORS ATKINSON, CANCELA AND PARKS

Referred to Committee on Judiciary

SUMMARY—Establishes a procedure when certain offenses are decriminalized. (BDR 14-319)

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 crimes; establishing a procedure **for requesting the sealing of certain records of criminal history** when ~~certain~~ offenses are decriminalized; ~~to ensure certain actions are taken with respect to any person previously convicted of the offense;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that when an offense is decriminalized, ~~as soon as practicable, the Central Repository for Nevada Records of Criminal History is required to: (1) identify persons;~~ **a person who was** convicted of the offense before the offense was decriminalized ~~;~~ ~~(2) notify such persons in writing; (3) destroy any physical or electronic record of criminal history in its possession relating to the conviction; and (4) notify any agency of criminal justice that has custody of any physical or electronic record of criminal history relating to the conviction. Section 1 also requires an agency of criminal justice that receives such a notice from the Central Repository, as soon as practicable after receiving such a notice, to destroy any physical or electronic record of criminal history in its possession relating to the conviction. Additionally, section 1 provides that the conviction and all proceedings recounted in the record of criminal history are deemed never to have occurred, and the person convicted of the offense may properly answer accordingly to any inquiry concerning the conviction and the events and proceedings relating to the conviction. Finally, section 1 provides that the person convicted of the offense is immediately restored to all civil rights if the person's civil rights previously have not been restored and the person has not been convicted of another offense for which the person's civil rights are not yet eligible for restoration.~~ **may submit a request to any court in which the person was convicted that any record of criminal history relating to the conviction be sealed. Section 1** does not apply to a traffic offense. ~~Section 2~~ **Sections 1.3, 1.5, 1.7 and 2** of this bill ~~makes a~~ **make** conforming ~~change.~~ **changes.**

Section 3 of this bill provides that the requirements of this bill apply to offenses ~~that were~~ decriminalized before, on and after July 1, 2019.

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

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

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

~~(a) [The Central Repository shall, as soon as practicable,~~

~~(1) Identify any] Any person who was convicted of that offense before the date on which the offense was decriminalized [;~~

~~(2) Notify, in writing, any person identified pursuant to subparagraph (1) of the provisions of this section at the last known address of the person;~~

~~(3) Destroy] may submit a written request to any court in which the person was convicted of that offense for the sealing of any [physical or electronic] record of criminal history in its possession and in the possession of any agency of criminal justice relating to the conviction. [; and~~

~~(4) Notify, in writing, any agency of criminal justice that has custody of any physical or electronic record of criminal history relating to the conviction.~~

~~(b) An agency of criminal justice that receives a notice from the Central Repository pursuant to subparagraph (1) of paragraph (a) shall, as soon as practicable after receiving such a notice, destroy any physical or electronic record of criminal history in its possession relating to the conviction.~~

~~(c) The conviction and all proceedings recounted in the record of criminal history are deemed never to have occurred, and the person convicted of the offense may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the conviction and the events and proceedings relating to the conviction.~~

~~(d) The person convicted of the offense is immediately restored to all civil rights if the person's civil rights previously have not been restored and the person has not been convicted of another offense for which the person's civil rights are not yet eligible for restoration. A person whose civil rights are restored pursuant to this paragraph must be given an official document from the Central Repository, sent to the last known address of the person, which demonstrates that the person has been restored to all civil rights.]~~

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

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

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

~~[2.]~~ 4. As used in this section:

1 (a) *“Decriminalized” means that an offense is no longer punishable as a*
2 *crime as the result of enactment of an act of the Legislature or the passage of a*
3 *referendum petition or initiative petition pursuant to Article 19 of the Nevada*
4 *Constitution.*

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

7 Sec. 1.3. NRS 179.275 is hereby amended to read as follows:

8 179.275 Where the court orders the sealing of a record pursuant to NRS
9 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595,
10 201.354, 453.3365 or 458.330 or section 1 of this act, a copy of the order must
11 be sent to:

12 1. The Central Repository for Nevada Records of Criminal History; and
13 2. Each agency of criminal justice and each public or private company,
14 agency, official or other custodian of records named in the order, and that person
15 shall seal the records in his or her custody which relate to the matters contained in
16 the order, shall advise the court of compliance and shall then seal the order.

17 Sec. 1.5. NRS 179.285 is hereby amended to read as follows:

18 179.285 Except as otherwise provided in NRS 179.301:

19 1. If the court orders a record sealed pursuant to NRS 174.034, 176A.265,
20 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or
21 458.330 or section 1 of this act:

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

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

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

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

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

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

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

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

50 Sec. 1.7. NRS 179.295 is hereby amended to read as follows:

51 179.295 1. The person who is the subject of the records that are sealed
52 pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255,
53 179.259, 179.2595, 201.354, 453.3365 or 458.330 or section 1 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 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 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 1 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 for a conviction of another offense.

Sec. 2. ~~[NRS 6.010 is hereby amended to read as follows:~~

~~6.010 Except as otherwise provided in this section, every qualified elector of the State, whether registered or not, who has sufficient knowledge of the English language, and who has not been convicted of treason, a felony, or other infamous crime, and who is not rendered incapable by reason of physical or mental infirmity, is a qualified juror of the county in which the person resides. A person who has been convicted of a felony is not a qualified juror of the county in which the person resides until the person's civil right to serve as a juror has been restored pursuant to NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 [.] or section 1 of this act.]~~
(Deleted by amendment.)

Sec. 3. The amendatory provisions of this act apply to an offense that:

1. Was decriminalized before July 1, 2019; and
2. Is decriminalized on or after July 1, 2019.

Sec. 4. This act becomes effective on July 1, 2019.