

ASSEMBLY BILL NO. 275—ASSEMBLYMEN HARDY,
HAFEN, YUREK; HANSEN AND THOMAS

MARCH 8, 2023

JOINT SPONSORS: SENATORS HAMMOND AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of criminal records. (BDR 14-204)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal records; prohibiting a court or agency of criminal justice from charging fees related to the sealing of criminal records under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain acts that constitute the crime of sex trafficking. (NRS 201.300) Existing law authorizes a person convicted of certain offenses to petition the court to seal all records relating to the conviction. (NRS 179.245) This bill prohibits a court or agency of criminal justice in this State from charging any fees related to the sealing of a criminal record if, at the time the crime for which the record to be sealed was committed, the petitioner was being sex trafficked.

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

Section 1. NRS 179.245 is hereby amended to read as follows:
179.245 1. Except as otherwise provided in subsection 6 and
NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,
201.354 and 453.3365, a person may petition the court in which the
person was convicted for the sealing of all records relating to a
conviction of:



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

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

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

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

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

(f) Except as otherwise provided in paragraph (e), if the offense is punished as a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary or extended order for protection, after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

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

2. A petition filed pursuant to subsection 1 must:

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

(b) If the petition references NRS 453.3365, 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 (1) Date of birth of the petitioner;
2 (2) Specific conviction to which the records to be sealed
3 pertain; and

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

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

13 4. If the prosecuting agency that prosecuted the petitioner for
14 the crime stipulates to the sealing of the records, the court shall
15 apply the presumption set forth in NRS 179.2445 and seal the
16 records. If the prosecuting agency does not stipulate to the sealing of
17 the records or does not file a written objection within 30 days after
18 receiving notification pursuant to subsection 3 and the court makes
19 the findings set forth in subsection 5, the court may order the sealing
20 of the records in accordance with subsection 5 without a hearing. If
21 the court does not order the sealing of the records or the prosecuting
22 agency files a written objection, a hearing on the petition must be
23 conducted. At the hearing, unless an objecting party presents
24 evidence sufficient to rebut the presumption set forth in NRS
25 179.2445, the court shall apply the presumption and seal the records.

26 5. If the court finds that, in the period prescribed in subsection
27 1, the petitioner has not been charged with any offense for which the
28 charges are pending or convicted of any offense, except for minor
29 moving or standing traffic violations, the court may order sealed all
30 records of the conviction which are in the custody of any agency of
31 criminal justice or any public or private agency, company, official
32 or other custodian of records in the State of Nevada, and may also
33 order all such records of the petitioner returned to the file of the
34 court where the proceeding was commenced from, including,
35 without limitation, the Federal Bureau of Investigation and all other
36 agencies of criminal justice which maintain such records and which
37 are reasonably known by either the petitioner or the court to have
38 possession of such records.

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

- 41 (a) A crime against a child;
42 (b) A sexual offense;
43 (c) Invasion of the home with a deadly weapon pursuant to
44 NRS 205.067;



(d) 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;

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

(f) 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;

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

(h) A violation of NRS 488.420 or 488.425.

7. The provisions of paragraph (e) of subsection 1 and paragraph (d) of subsection 6 must not be construed to preclude a person from being able to petition the court to seal records relating to a conviction for a violation of NRS 484C.110 or 484C.120 pursuant to this section if the person was found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to:

(a) Paragraph (b) of subsection 1 of NRS 484C.400; or

(b) Paragraph (c) of subsection 1 of NRS 484C.400 but had a judgment of conviction entered against him or her for a violation of paragraph (b) of subsection 1 of NRS 484C.400 because the person participated in the statewide sobriety and drug monitoring program established pursuant to NRS 484C.392.

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

9. *Notwithstanding any other provision of law, no fee may be charged by any court or agency of criminal justice in this State related to a petition for the sealing of records pursuant to this section if, at the time the crime for which the records to be sealed was committed, the petitioner was being trafficked pursuant to NRS 201.300. As used in this subsection, "fee" includes, without limitation, any fee to file a petition, obtain fingerprints if provided by a governmental agency of this State, obtain any records of criminal history, obtain records of past arrests and convictions or obtain or certify copies of documents pursuant to NRS 19.013 and any other fee related to the sealing of records pursuant to this section.*

10. 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



1 sexual molestation of a child less than 14 years of age pursuant to
2 paragraph (b) of subsection 1 of NRS 200.030.

3 (2) Sexual assault pursuant to NRS 200.366.

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

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

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

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

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

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

20 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

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

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

36 **Sec. 2.** This act becomes effective on July 1, 2023.

