

ASSEMBLY BILL NO. 275—ASSEMBLYMEN HARDY, HAFEN, YUREK;
CONSIDINE, HANSEN, TAYLOR 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; requiring a convicted person who is petitioning the court to have his or her criminal record sealed to include certain information in the petition under certain circumstances; 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:

- 1 Existing law establishes certain acts that constitute the crime of sex trafficking.
- 2 (NRS 201.300) Existing law authorizes a person convicted of certain offenses to
- 3 petition the court to seal all records relating to the conviction. (NRS 179.245) This
- 4 bill: (1) requires, in certain circumstances, such a petition to include a statement
- 5 from the petitioner certifying that at the time the crime for which the records to be
- 6 sealed was committed, the petitioner was being sex trafficked; and (2) prohibits a
- 7 court or agency of criminal justice in this State from charging any fees related to
- 8 the sealing of a criminal record if, at the time the crime for which the record to be
- 9 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



1 records to be sealed from all agencies of criminal justice which
2 maintain such records;

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

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

10 (1) Date of birth of the petitioner;

11 (2) Specific conviction to which the records to be sealed
12 pertain; and

13 (3) Date of arrest relating to the specific conviction to which
14 the records to be sealed pertain ~~and~~; and

15 *(e) If applicable, include a statement from the petitioner*
16 *certifying that at the time the crime for which the records to be*
17 *sealed was committed, the petitioner was being sex trafficked*
18 *pursuant to NRS 201.300.*

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

26 4. If the prosecuting agency that prosecuted the petitioner for
27 the crime stipulates to the sealing of the records, the court shall
28 apply the presumption set forth in NRS 179.2445 and seal the
29 records. If the prosecuting agency does not stipulate to the sealing of
30 the records or does not file a written objection within 30 days after
31 receiving notification pursuant to subsection 3 and the court makes
32 the findings set forth in subsection 5, the court may order the sealing
33 of the records in accordance with subsection 5 without a hearing. If
34 the court does not order the sealing of the records or the prosecuting
35 agency files a written objection, a hearing on the petition must be
36 conducted. At the hearing, unless an objecting party presents
37 evidence sufficient to rebut the presumption set forth in NRS
38 179.2445, the court shall apply the presumption and seal the records.

39 5. If the court finds that, in the period prescribed in subsection
40 1, the petitioner has not been charged with any offense for which the
41 charges are pending or convicted of any offense, except for minor
42 moving or standing traffic violations, the court may order sealed all
43 records of the conviction which are in the custody of any agency of
44 criminal justice or any public or private agency, company, official
45 or other custodian of records in the State of Nevada, and may also



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

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

9 (a) A crime against a child;

10 (b) A sexual offense;

11 (c) Invasion of the home with a deadly weapon pursuant to
12 NRS 205.067;

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

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

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

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

23 (h) A violation of NRS 488.420 or 488.425.

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

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

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

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

40 9. *Notwithstanding any other provision of law, no fee may be*
41 *charged by any court or agency of criminal justice in this State*
42 *related to a petition for the sealing of records pursuant to this*
43 *section if, at the time the crime for which the records to be sealed*
44 *was committed, the petitioner was being sex trafficked pursuant to*
45 *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 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, 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.



1 (17) An attempt to commit an offense listed in this
2 paragraph.
3 **Sec. 2.** This act becomes effective on July 1, 2023.

