

SEALING OF CRIMINAL HISTORY RECORDS

By statute, an individual may request that a court seal records of arrest, criminal conviction, acquittal, or dismissal. The purpose of this information, which includes sample forms, is to identify the law and the District Attorney's Office procedures for utilizing the stipulation process when petitioning a court to seal records of arrest, conviction, acquittal, or dismissal.

For clarification purposes, an order sealing records is not an expungement of records, which allows for the destruction of the records. Rather, an order sealing records removes the records from general information sources but does not authorize their destruction. In fact, a record sealed pursuant to statute may later be used in certain circumstances. (See NRS 179.295 and 179.301).

Additionally, although the entry of an order by a court requires that certain criminal justice agencies located outside the State of Nevada are to comply with its direction, these agencies are not bound to follow this order. Therefore, it is possible that these records will not be removed from their record entry systems.

The process can take anywhere from 2 to 4 months to complete but this is depending on the accuracy of all the information on the Court Order.

OBTAINING COPY OF CRIMINAL HISTORY RECORD

Obtaining Criminal History Records applicable to sealing records after a conviction, acquittal or dismissal (NRS 179.245, 179.255, 176A.265, 179.259 and/or 453.3365).

Prior to preparing a Petition and Order, a request for a current, verified copy of applicant's criminal history **for the purpose of sealing records** should be made of the Criminal History Repository or the local law enforcement agency of the city or county in which the conviction was entered or in which the petitioner appeared in court. There is a fee for this service. Please check with the agency for the current fees.

Request for criminal history form and FBI information is available at the following web site. www.gsd.nv.gov.

Washoe County requires a copy of your Criminal History from both the State and FBI.

To have your fingerprints taken you can go to any local Police Department or Sheriff's Office and have your prints rolled. There is a fee for this which varies by agency.

The District Attorney's Office will be able to give you all the requirements for the county in which the arrest(s) is to be sealed.

STATUTORY REQUIREMENTS

NRS 179.245 Sealing records after conviction: Persons eligible; petition; notice; hearing; order.

1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 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 his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

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

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) 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

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice's court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

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

6. 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.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.210.

(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 and 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) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

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

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

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or mentally ill person pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

(Added to NRS by 1971, 955; A 1983, 1088; 1991, 303; 1993, 38; 1997, 1673, 1803, 3159; 1999, 647, 648, 649;

2001, 1167, 1692; 2001 Special Session, 261; 2003, 312, 316, 319, 1385)

NRS 179.255 Sealing records after dismissal or acquittal: Petition; notice; hearing; order.

1. If a person has been arrested for alleged criminal conduct and the charges are dismissed or such person is acquitted of the charges, the person may petition:

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

(b) 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 or acquittal.

2. A petition filed pursuant to this section must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

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

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

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

(b) If the charges were dismissed or the acquittal was entered in a municipal court, the prosecuting attorney for the city. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that there has been an acquittal 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 or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.
(Added to NRS by 1971, 955; A 1997, 3160; 2001, 1693)

NRS 179.259 Sealing records after completion of program for reentry: Persons eligible; procedure; order; inspection of sealed records by professional licensing board.

1. Except as otherwise provided in subsections 3 and 4, 5 years after an eligible person completes a program for reentry, the court may 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 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. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

5. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 79D.210.

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

(1) Successfully completed a program for reentry to which he 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 209.48875; 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 7 of NRS 179.245.

(Added to NRS by 2001, 1166; A 2003, 26, 2586)

NRS 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. (Added to NRS by 1971, 956)

NRS 179.275 Order sealing records: Distribution to Central Repository and persons named in order; compliance. Where the court orders the sealing of a record pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365, a copy of the order must be sent to:

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

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

(Added to NRS by 1971, 956; A 1991, 304; 1999, 2089; 2001, 1168; 2001 Special Session, 261; 2003, 312)

NRS 179.285 Order sealing records: Effect; proceedings deemed never to have occurred; restoration of civil rights. Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365:

(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 his 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 his records, a person who is restored to his civil rights must be given an official document which demonstrates that he has been restored to the civil rights set forth in paragraph (b) of subsection 1.

3. A person who has had his records sealed in this state or any other state and whose official documentation of the restoration of his civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has had his 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 records sealed in this state or any other state may present official documentation that he has been restored to his civil rights or a court order restoring his civil rights as proof that he has been restored to the right to vote, to hold office and to serve as a juror.

(Added to NRS by 1971, 956; A 1981, 1105; 1991, 304; 2001, 1169, 1694; 2001 Special Session, 262; 2003, 312, 316, 319, 2687)

NRS 179.295 Reopening of sealed records.

1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 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 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 similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

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

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 in determining whether to grant a petition pursuant to NRS

176A.265, 179.245, 179.255, 179.259 or 453.3365 for a conviction of another offense.

(Added to NRS by 1971, 956; A 1981, 1105; 1991, 304; 1997, 3160; 2001, 1169, 1694; 2001 Special Session, 262; 2003, 312, 316, 319)

NRS 179.301 Inspection of sealed records by certain agencies.

1. The State 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, 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 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 that constitute information relating to sexual offenses, and may notify employers of the information in accordance with NRS 179A.180 to 179A.240, inclusive.

3. Records which have been sealed pursuant to NRS 179.245 or 179.255 and which are retained in the statewide registry established pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of NRS by an officer or employee of the Central Repository for Nevada Records of Criminal History or a law enforcement officer in the regular course of his duties.

4. As used in this section:

(a) "Information relating to sexual offenses" means information contained in or concerning a record of criminal history, or the records of criminal history of the United States or another state, relating in any way to a sexual offense.

(b) "Sexual offense" has the meaning ascribed to it in NRS 179A.073.
(Added to NRS by 1981, 1105; A 1987, 1759; 1997, 1674; 2003, 2688, 2833; 2003, 20th Special Session, 16)

Pardons (See Nevada Revised Statutes 213.020)

The Nevada Board of Pardons Commissioners is comprised of the Governor, the Attorney General and the members of the Nevada Supreme Court.

You can obtain an application for a pardon by writing to:

Executive Secretary
Nevada Board of Pardons
1445 Hot Springs Road, Suite 108B
Carson City, NV 89710

Or, you can download the form from the following site:

<http://www.silversource.state.nv.us/forms/parole/parole2.pdf>

Court of Jurisdiction

The Judicial **District Court**, the highest court in the Counties governed by Nevada statutes, can be petitioned to seal all charges within the County including municipal, justice and/or district court cases.

If petitioning to seal a justice court case, the heading of the petition and order should list the specific township where the case was, or would have been, prosecuted. One petition and order can seal charges within multiple townships.

Preparation of Forms

There are two (2) legal documents (a Petition and an Order) which the applicant must prepare when requesting a record sealing. If petitioning through the district or justice court system, these forms should be submitted to the District Attorney's Office along with all appropriate attachments within 30 days of receipt of criminal history information. The Petition and Order should accurately and completely identify each record to be sealed. Minimally, the following information is required:

Date of Arrest, Arresting Agency, Charge and Final Disposition.
Supporting information, such as the arresting agency report number, court case number and PCN#, if available, and documented for each arrest/citation, may also be included in the forms.

Additionally, it is extremely important that the Petition and Order include a list of any public or private agency, company, official or other custodian of records who is reasonably known to have possession of records of the conviction, acquittal or dismissal, and to whom the order to seal records, if issued, will be directed (i.e.: law enforcement agencies, justice/municipal/district court(s), city and/or county prosecuting agencies)

All information must be provided. Receipt of partial information may be cause for denial of a request for sealing of records. It shall be the responsibility of the petitioner to provide written documentation of the final disposition if the criminal history, as received from the law enforcement agency, does not include a final disposition for an arrest/citation. This documentation may be obtained from the court where the arrest/citation was filed or from the law enforcement agency involved in the incident.

Submittal of Forms

Once the legal documents are prepared and the originals are signed by the applicant, the following should be taken to the District Attorney's Office of the county you are petitioning for sealing of records.

1. Original and minimum of one copy of the Petition (including Affidavit)
2. Original and minimum of one copy of the Order
3. Criminal history record as received from the Criminal History Repository or law enforcement agency involved.
4. Copy of the Judgment of Conviction and documentation of successful completion of requirements should also be provided if petitioning to seal records pursuant to NRS 176A.265, 179.259 and/or 453.3365.
5. The District Attorney's Office will retain one copy of all documents for their files and will notify you by telephone or mail when the Petition and Order are ready for pick up.

Approval

If the District Attorney's Office has stipulated to sealing records, take the originals and necessary copies of the Petition and Order to the Clerk of the appropriate court. Justice Court documents are filed in the appropriate township. You should contact the Clerk of the Court and inquire if there is a filing fee for sealing records and acceptable form of payment.

The Clerk of the Court will retain your paperwork and submit your Order to the Judge for his/her signature. Ask the Clerk if you will be notified to pick up your forms. When you pick up your documents, you should ask the Clerk for as many certified copies of the signed Order as needed for distribution to the law enforcement agencies, courts, and prosecuting officials involved in the sealing of records as specifically named in the Petition and Order. (Gaming Control Board, Nevada Parole and Probation, Nevada Department of Corrections, Criminal History Repository, etc.) A certified copy of the Order should also be retained for your records.

Except where the Court orders otherwise, it shall be the responsibility of the Petitioner to serve each of the agencies named within the Order with a copy of the Order.

Once the Repository has all the information needed the processes the Court Order Seal it will take any where from 2 to 4 months for completion of the Sealing of Records.