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ASSEMBLY BILL NO. 142—ASSEMBLYMEN MUNFORD, FIORE;  
DUNCAN, ELLISON, HANSEN, HARDY, HOGAN, HORNE,  
KIRKPATRICK AND MARTIN

FEBRUARY 18, 2013

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JOINT SPONSORS: SENATORS SEGERBLOM, DENIS, KIHUEN;  
ATKINSON, GUSTAVSON, JONES AND SPEARMAN

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Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the sealing and  
removal of certain records. (BDR 14-490)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

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AN ACT relating to records; revising provisions governing the  
sealing and removal of certain records; and providing  
other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law authorizes a person arrested for alleged criminal conduct to
- 2 petition for the sealing of all records relating to the arrest if the charges were
- 3 dismissed or the person was acquitted of the charges. (NRS 179.255) **Section 1** of
- 4 this bill authorizes such a person to petition for the sealing of all records relating to
- 5 an arrest if the prosecuting attorney declines to prosecute the charges.
- 6 Existing law also provides that a person who has been arrested, issued a citation
- 7 or the subject of a warrant for alleged criminal conduct may apply to the Central
- 8 Repository for Nevada Records of Criminal History to remove the record of
- 9 criminal history if the charge was dismissed, acquittal was entered or the
- 10 disposition of the charge was favorable to the accused. (NRS 179A.160) **Section 3**
- 11 of this bill authorizes such a person to apply to have the record of criminal history
- 12 removed if the prosecuting attorney declined to prosecute the charges.



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

- 1       **Section 1.** NRS 179.255 is hereby amended to read as follows:  
2       179.255 1. If a person has been arrested for alleged criminal  
3 conduct and the charges are dismissed , *the prosecuting attorney*  
4 *having jurisdiction declined prosecution of the charges* or such  
5 person is acquitted of the charges, the person may petition:  
6       (a) The court in which the charges were dismissed, at any time  
7 after the date the charges were dismissed; ~~or~~  
8       (b) *The court having jurisdiction in which the charges were*  
9 *declined for prosecution, at any time 180 days after the date of the*  
10 *declination; or*  
11       (c) The court in which the acquittal was entered, at any time  
12 after the date of the acquittal,  
13       ➔ for the sealing of all records relating to the arrest and the  
14 proceedings leading to the dismissal , *declination* or acquittal.  
15       2. If the conviction of a person is set aside pursuant to NRS  
16 458A.240, the person may petition the court that set aside the  
17 conviction, at any time after the conviction has been set aside, for  
18 the sealing of all records relating to the setting aside of the  
19 conviction.  
20       3. A petition filed pursuant to subsection 1 or 2 must:  
21       (a) Be accompanied by a current, verified record of the criminal  
22 history of the petitioner received from the local law enforcement  
23 agency of the city or county in which the petitioner appeared in  
24 court;  
25       (b) Include a list of any other public or private agency,  
26 company, official and other custodian of records that is reasonably  
27 known to the petitioner to have possession of records of the arrest  
28 and of the proceedings leading to the dismissal , *declination* or  
29 acquittal and to whom the order to seal records, if issued, will be  
30 directed; and  
31       (c) Include information that, to the best knowledge and belief of  
32 the petitioner, accurately and completely identifies the records to be  
33 sealed.  
34       4. Upon receiving a petition pursuant to subsection 1, the court  
35 shall notify the law enforcement agency that arrested the petitioner  
36 for the crime and:  
37       (a) If the charges were dismissed , *declined for prosecution* or  
38 the acquittal was entered in a district court or justice court, the  
39 prosecuting attorney for the county; or  
40       (b) If the charges were dismissed , *declined for prosecution* or  
41 the acquittal was entered in a municipal court, the prosecuting  
42 attorney for the city.



1   ↳ The prosecuting attorney and any person having relevant  
2 evidence may testify and present evidence at the hearing on the  
3 petition.

4   5. Upon receiving a petition pursuant to subsection 2, the court  
5 shall notify:

6   (a) If the conviction was set aside in a district court or justice  
7 court, the prosecuting attorney for the county; or

8   (b) If the conviction was set aside in a municipal court, the  
9 prosecuting attorney for the city.

10   ↳ The prosecuting attorney and any person having relevant  
11 evidence may testify and present evidence at the hearing on the  
12 petition.

13   6. If, after the hearing on a petition submitted pursuant to  
14 subsection 1, the court finds that there has been an acquittal, *that*  
15 *the prosecution was declined* or that the charges were dismissed  
16 and there is no evidence that further action will be brought against  
17 the person, the court may order sealed all records of the arrest and of  
18 the proceedings leading to the acquittal, *declination* or dismissal  
19 which are in the custody of the court, of another court in the State of  
20 Nevada or of a public or private company, agency or official in the  
21 State of Nevada.

22   7. If, after the hearing on a petition submitted pursuant to  
23 subsection 2, the court finds that the conviction of the petitioner was  
24 set aside pursuant to NRS 458A.240, the court may order sealed all  
25 records relating to the setting aside of the conviction which are in  
26 the custody of the court, of another court in the State of Nevada or  
27 of a public or private company, agency or official in the State of  
28 Nevada.

29   ***8. If the prosecuting attorney having jurisdiction previously***  
30 ***declined prosecution of the charges and the records of the arrest***  
31 ***have been sealed pursuant to subsection 6, the prosecuting***  
32 ***attorney may subsequently file the charges at any time before the***  
33 ***running of the statute of limitations for those charges. If such***  
34 ***charges are filed with the court, the court shall order the***  
35 ***inspection of the records without the prosecuting attorney having***  
36 ***to petition the court pursuant to NRS 179.295.***

37   **Sec. 2.** NRS 179.295 is hereby amended to read as follows:

38   179.295 1. The person who is the subject of the records that  
39 are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255,  
40 179.259, 453.3365 or 458.330 may petition the court that ordered  
41 the records sealed to permit inspection of the records by a person  
42 named in the petition, and the court may order such inspection.  
43 Except as otherwise provided in this section, ***subsection 8 of NRS***  
44 ***179.255*** and NRS 179.259 and 179.301, the court may not order the  
45 inspection of the records under any other circumstances.



1 2. If a person has been arrested, the charges have been  
2 dismissed and the records of the arrest have been sealed, the court  
3 may order the inspection of the records by a prosecuting attorney  
4 upon a showing that as a result of newly discovered evidence, the  
5 person has been arrested for the same or a similar offense and that  
6 there is sufficient evidence reasonably to conclude that the person  
7 will stand trial for the offense.

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

13 4. This section does not prohibit a court from considering a  
14 conviction for which records have been sealed pursuant to NRS  
15 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or  
16 458.330 in determining whether to grant a petition pursuant to NRS  
17 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or  
18 458.330 for a conviction of another offense.

19 **Sec. 3.** NRS 179A.160 is hereby amended to read as follows:

20 179A.160 1. If a person has been arrested or issued a citation,  
21 or has been the subject of a warrant for alleged criminal conduct and  
22 the person is acquitted of the charge or the disposition of the charge  
23 is favorable to the person, at any time after the charge is dismissed,  
24 acquittal is entered or disposition of the charge in favor of the  
25 person is final, the person who is the subject of a record of criminal  
26 history relating to the arrest, citation or warrant may apply in  
27 writing to the Central Repository and the agency which maintains  
28 the record to have it removed from the files which are available and  
29 generally searched for the purpose of responding to inquiries  
30 concerning the criminal history of a person.

31 2. *If a person has been arrested or issued a citation, or has  
32 been the subject of a warrant for alleged criminal conduct and the  
33 prosecuting attorney having jurisdiction declined prosecution, at  
34 any time 180 days after the declination, the person who is the  
35 subject of a record of criminal history relating to the arrest,  
36 citation or warrant may apply in writing to the Central Repository  
37 and the agency which maintains the record to have it removed  
38 from the files which are available and generally searched for the  
39 purpose of responding to inquiries concerning the criminal history  
40 of a person.*

41 3. The Central Repository and the agency shall remove the  
42 record unless:

43 (a) The defendant is a fugitive;

44 (b) The case is under active prosecution according to a current  
45 certificate of a prosecuting attorney;



- 1 (c) The disposition of the case was a deferred prosecution, plea  
2 bargain or other similar disposition;
- 3 (d) The person who is the subject of the record has a prior  
4 conviction for a felony or gross misdemeanor in any jurisdiction in  
5 the United States; or
- 6 (e) The person who is the subject of the record has been arrested  
7 for or charged with another crime, other than a minor traffic  
8 violation, since the arrest, citation or warrant which the person seeks  
9 to have removed from the record.
- 10 ~~3.1~~ 4. This section does not restrict the authority of a court to  
11 order the deletion or modification of a record in a particular cause or  
12 concerning a particular person or event.

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