

General Information

What does it mean to seal a criminal record? What kind of records may be sealed? How much time must pass before a criminal record may be sealed? Is there a right to have records automatically sealed when the waiting periods expire? What papers must be filed with the court? Must any other information be provided to the court with the court papers? What other steps must be taken before filing the court papers?

What does it mean to seal a criminal record?

To "seal" a criminal record means that a court clerk is ordered by a judge to hide a court record of criminal proceedings from public view. Originally records were actually placed in an envelope which was secured with a wax seal. The records are not destroyed because under certain circumstances, a court can order that sealed be reopened. Generally, however, the effect of sealing is the court acts as if the information in the record never existed.

A court not only seals its records, but also orders that records containing information about the charges held by others be sealed as well. The order may cover courts in Nevada and other states, records held by any Nevada public or private agency and even criminal identification records contained in the file of the court or agency where the criminal proceedings started, including the FBI and all other law-enforcement agencies known to possess such records. NRS 179.245.

Once a criminal record is sealed, all of the proceedings in it are treated as if they never occurred. Persons may then properly and lawfully answer any questions about the arrest, acquittal, conviction etc., as if they never happened. NRS 179.285. For example, it is OK in a job interview or even under oath to deny a sealed conviction.

What kind of records may be sealed?

Records leading to conviction, dismissal, or acquittal (a finding of not guilty) can all be sealed. The only requirement is that there be a formal "disposition" of each criminal charge. A person may not, however, petition a court to seal records related to conviction of a crime against a child or of a sexual offense. NRS 179.245.5.

How much time must pass before a criminal record may be sealed?

If charges are dismissed or a defendant is acquitted, NRS 179.255 allows sealing after 30 days.

If convicted, the amount of time which the law (NRS 179.245) makes a defendant wait for the record may be sealed depends upon the seriousness of the crime. The time periods began to run from the date of conviction, or release from prison, parole, or probation, whichever comes later. The waiting periods prior to asking to seal criminal

conviction records are:

Ten to Fifteen years for a Felony (depending upon the crime committed)
Seven years for a gross misdemeanor,
Seven years for a non-felony Driving Under the Influence (DUI)
Seven years for a non-felony domestic violence battery,
Five years for other misdemeanors.

Is there a right to have records automatically sealed when the waiting periods expire?

No.

The defendant must file certain papers with the court and have a hearing before the judge before the record may be sealed. If there has been an acquittal or dismissal, the court must find that there is no evidence that further action will be brought against the person prior to sealing the record. NRS 179.255. If there has been a conviction, the court must find that during the waiting period the defendant has not been arrested except for minor moving or standing traffic violations prior to sealing the records. NRS 179.245.

What papers must be filed with the court?

Part

to a hearing, a District Court cover sheet, and a Petition, Stipulation, and Order must be filed. The Petition and Order must list the following:

PCN#:, Date of Arrest, Arresting Agency, Arresting Agency #, Charge, Court Case#, and Final Disposition:

The

Order must also indicate the name of all agencies better known to have relevant records to whom certified copies will be sent. If you do not have an attorney you may contact Legal Aid Center of Southern Nevada as listed below to obtain sample court papers.

Must any other information be provided to the court with the court papers?

Yes.

The former defendant must also provide a current certified record of his/her criminal history from the Nevada Criminal History Records Repository (Repository). To obtain a history from the Repository it is necessary to provide them with a Fingerprint Card (available from the Clark County District Attorneys' Office) and a cashier's check or money order payable to the Nevada Highway Patrol for \$15.00.

The

Repository cannot provide information about criminal histories prior to 1988. This information can be obtained from the Las Vegas Metropolitan Police Department. The Metropolitan Police Department is located at 400 East Stewart. The cost is approximately \$7.00.

It is also necessary to provide copies of the Judgment of Conviction and appropriate discharge from probation papers, if applicable. These papers can be obtained from the Clerk of the Court, 200 South 3d Street, 3d Floor, Las Vegas, Nevada 89155.

What other steps must be taken before filing the court papers?

First the papers must be typed. Sample papers from Legal Aid Center of Southern Nevada must be re-typed with information about the individual's particular situation.

The District Attorney must first sign the papers. Court papers must be submitted to the District Attorneys Office at 200 So. 3d Street, Fifth Floor reception area The District Attorney will not sign unless following has been submitted:

Two signed and notarized copies of the Petition, the Stipulation and the Order; Criminal history records from the Repository and the Las Vegas Metropolitan Police Department; and Copies of the Judgment of Conviction and appropriate discharge papers from Probation if applicable.

Once the District Attorney has signed, what papers must be filed with the Court Clerk?

After the District Attorney has signed, the papers must be taken to the Clerk's Office at the County Courthouse at 200 So. 3d Street, 3d Floor for filing. A filing fee of \$127.00 is normally required. Persons who cannot afford the filing fee may ask the court to waive it by filing a motion to proceed In Forma Pauperis (IFP). These pleadings consist of a motion, an affidavit listing monthly expenses, and a proposed Order Waiving Costs. Sample pleadings may also be obtained from Legal Aid Center of Southern Nevada. The IFP pleadings must be submitted at the time the other papers are filed for the District Court Judge's signature.

If the judge signs an order sealing records, is the court's order automatically sent to the correct law enforcement agencies?

No. The District Court Judge signs the order and files it with the Clerk of the District Court. However, the defendant must take a signed, certified stamped Order sealing the record to the Las Vegas Metropolitan Police Department, the North Las Vegas Police Department, or wherever is applicable to complete the process.

Can sealed records ever be reopened?

Sealed records may be reopened only under the following limited circumstances:

Upon the petition of the person who is the subject of the records in order to inspect them. NRS 179.295.1.
At the request of the prosecutor, if the charges were dismissed, upon a showing of newly discovered evidence. NRS 179.295.2.

Upon application of a prosecutor or an attorney representing a criminal defendant for the purpose of obtaining information regarding the persons involved. NRS 179.295.3.

Certain agencies such as the Gaming Control Board have authority to inspect for such limited purposes as obtaining information regarding fitness for a gaming license. NRS 179.301.

If a judge rejects a petition to seal records, what can be done?

A petition for a re-hearing generally may not be granted for 2 years after it is denied. NRS 179.265. If a petition is rejected it is advisable to contact an attorney. Persons unable to afford an attorney may contact Nevada Legal Services at 386-1070, Monday through Thursday, 9:30 a.m. through 12 noon.

To obtain sample pleadings [click here](#) or contact:

Legal Aid Center of Southern Nevada

800 South Eighth Street

(702) 386-1070

1-800-522-1070

FAX: (702) 366-0569

TDD: (702) 386-1059 (Hearing Impaired)