

**SEALING MISDEMEANOR
CRIMINAL RECORDS IN THE
HENDERSON MUNICIPAL COURT**

CONVICTION/ACQUITTAL/DISMISSAL

**Office of the Henderson City Attorney
Criminal Division
243 Water Street, MS 711
P.O. Box 95050
Henderson, NV 89009-5050
(702) 267-1370**

This Booklet contains only procedural information that relates to the process for sealing records of cases filed and/or prosecuted in the Henderson Municipal Court.

The information contained herein should not be construed as legal advice. Any questions which relate to specific cases and/or personal issues should be directed to a private attorney.

By state law, an individual may petition the Henderson Municipal Court to seal records of a misdemeanor arrest, misdemeanor criminal conviction, acquittal on misdemeanor charges, or dismissal of misdemeanor charges that were originally filed with the Henderson Municipal Court. The purpose of these instructions and sample forms is to identify the law and procedures that must be followed when filing a petition requesting the Henderson Municipal Court to seal records of arrest, conviction, acquittal, or dismissal of misdemeanor offenses committed or filed in the City of Henderson.

An order sealing records is not the same as an expungement of the records. When records are expunged, the order directs the actual records to be destroyed. An order sealing records requires that the records be removed from the shelves, computer files, or any other information storage source and be placed into a sealed file. The order **does not** authorize or direct the destruction of the actual records.

Having a misdemeanor record sealed results in having all proceedings recounted in the record deemed never to have occurred. Consequently, the person to whom it pertains may properly answer accordingly to any inquiry concerning the arrest, conviction or acquittal and the events and proceedings relating to the arrest, conviction or acquittal. In certain circumstances sealed records may be reopened.

Question: When can a misdemeanor criminal conviction record be sealed?

Answer: A misdemeanor criminal record may be sealed only in accordance with the provisions of the Nevada Revised Statutes.

Misdemeanor criminal convictions for either **Domestic Violence** and **DUI** may be sealed if the petitioner has not been arrested, except for minor moving or standing traffic violations, after the passing of **seven (7) years following the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.**

NRS 179.245(e).

Any other misdemeanor convictions may be sealed if the petitioner has not been arrested, except for minor moving or standing traffic violations, after the passing of **two (2) years following the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.** NRS 179.245 (f).

Misdemeanor charges that result in either an **acquittal** or a **dismissal** of the charge may be sealed **at any time after the date of dismissal or acquittal.** NRS 179.255(a)(b).

Question: How can an individual begin the process of seeking to have a misdemeanor criminal record sealed by the Henderson Municipal Court?

Answer: An individual seeking to have misdemeanor criminal records sealed by the Henderson Municipal Court must first have their fingerprints taken on a fingerprint card (Personal Identification File Request for Nevada Records of Criminal History; (Form Number FD-258). The individual seeking to have a criminal record(s) sealed is called the petitioner.

Prior to having fingerprints taken and mailed to the Criminal History Records Repository, the petitioner must legibly complete the top portion of the fingerprint card, as well as the information requested on the back of the card.

If the petitioner is a **Henderson resident** they can be fingerprinted by the Henderson Police Department Civil Processing Office at 223 Lead

Street, Henderson, NV 89015. (There is a fee for this service. Call 267-4720 for applicable fees and the acceptable means of payment).

If the petitioner is **not a Henderson resident**, they should contact the Las Vegas Metropolitan Police Department, Fingerprint Section, 5880 Cameron Street, Las Vegas, NV 89118. (There is a fee for this service. Call 828-3271 for applicable fees and the acceptable means of payment).

After being fingerprinted the petitioner must mail the fingerprint card to the Criminal History Records Repository for Nevada. A request for a verified record of the petitioner's criminal history must be included with the fingerprint card.

Additionally, a fee of \$21.00 payable to the Nevada Department of Public Safety must be included with the fingerprint card when requesting the verified record from Criminal History Records Repository.

The request, fingerprint card, and **certified check or money order** must be mailed to:

State of Nevada
Criminal History Records Repository
333 W. Nye Lane, Ste. 100
Carson City, NV 89706
(775) 684-6262

The Criminal History Records Repository at the address indicated on the request form will send the criminal history records directly to the petitioner or their designated second party. A copy of the same records will be mailed to the Office of the City Attorney, City of Henderson.

Question: After receiving the verified record of the individual's criminal history what is the next step in seeking to have a misdemeanor record sealed by the Henderson Municipal Court?

Answer: Upon receipt of the verified record of the petitioner's criminal history, the petitioner must prepare legal documents formally requesting the Henderson Municipal Court to seal the misdemeanor record.

Question: What legal document is the petitioner required to prepare?

Answer: The petitioner must prepare a Stipulation, a Petition and an Order when requesting the sealing of a misdemeanor record to submit to the Henderson Municipal Court. These forms should be submitted to the Henderson Deputy City Attorney's Office, along with all appropriate attachments, **within 30 days of receipt of criminal history information.** Samples of each document can be found in this booklet.

The Petition and Order must specifically list the following information for each offense the Petitioner wants the Henderson Municipal Court to seal:

Henderson Police DR #:
Date of Arrest:
Charge:
Case No.:
Final Disposition:
Date of Final Disposition:

All information must be provided for proper consideration of a Petition to Seal Record. Receipt of partial information is a basis for denial of the Petition. It is the responsibility of the petitioner to submit written documentation of the final disposition if the criminal history received from the Repository does not include the final disposition for any arrest or citation filed in a court other than the Henderson Municipal Court. The documentation may be obtained from the court where the arrest or citation was filed, or the law enforcement agency involved in the incident.

Question: After preparing the legal documents what must the petitioner do to file the documents with the Henderson Municipal Court?

Answer: Once the legal documents are prepared, signed by the petitioner, notarized, and copied, the original documents and at least two copies should be taken to the Criminal Division of the Henderson City Attorney's Office. (This office is also referred to as the Deputy City Attorney's Office) That office is located at 243 Water Street, Henderson, NV 89009. The petitioner should also bring a copy of the final disposition for an arrest or citation filed in a court other than the Henderson Municipal Court.

The Deputy City Attorney's Office will notify you within two (2) weeks of whether or not the stipulation has been signed and may be filed with the Henderson Municipal Court. If the Deputy City Attorney's Office has signed the Stipulation and Order, the petitioner may then take the original documents and necessary copies to the Henderson Municipal Court Clerk's Office for filing.

Question: After filing what action does the Henderson Municipal Court take on the petition?

Answer: After filing the Stipulation, Petition and Order with the Municipal Court Clerk's Office, the documents and copies will be forwarded to the Chief Judge of the Henderson Municipal Court for review and signature. Ask the clerk how you will be notified to pick up the forms. When you are notified to pick up the forms you should ask the Municipal Court Clerk to provide four (4) certified copies of the signed Order. The petitioner must then serve certified copies of the Order to the Nevada Criminal History Records Repository, the Henderson Police Department and the Deputy City Attorney's Office. The petitioner should also keep a certified copy of the Order for their records.

Question: What is the procedure if the Deputy City Attorney's Office refuses to sign the Stipulation and Petition?

Answer: If the Deputy City Attorney's Office refuses to sign the proposed Stipulation and/or Order the documents will be returned with an explanation for the refusal. The petitioner may then correct the documents or file the Petition and Order with the Henderson Municipal Court. The Municipal Court Clerk's Office will then schedule the matter for hearing before a Judge of the Municipal Court. The petitioner must notify the Deputy City Attorney's Office of the hearing date and time.

Selected Sections of the Nevada Revised Statutes Regarding Sealing Records of Criminal Proceedings

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

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

(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 may, 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.

(f) Any other misdemeanor may, 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:
 - (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, ... and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

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 or other custodian of records that is reasonably known to

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:

- (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.

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.

NRS 179.285 Order sealing records: Effect; proceedings deemed never to have occurred.

Except as otherwise provided in NRS 179.301, if the court orders a record sealed pursuant to NRS 179.245, 179.255 or 453.3365:

1. 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 concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

Frequently Called Numbers

Eighth Judicial District Court

Records Information

Clark County Clerk's Office.....671-0500

Justice Courts

Boulder City.....455-8000

Bunkerville(702) 346-5711

Goodsprings..... 874-1405

Henderson.....455-7951

Las Vegas.....671-3116

Laughlin.....(702) 298-4622

Mesquite.....(702) 346-5298

Moapa.....(702) 864-2333

Moapa Valley.....(702) 397-2840

North Las Vegas.....455-7801

Searchlight.....(702) 297-1252

Municipal Courts

Henderson.....267-3300

Boulder City.....293-9278

Las Vegas.....382-6878

Mesquite.....(702) 346-5291

North Las Vegas.....633-1130

Prosecuting Officials

Clark County

District Attorney's Office.....671-2500

Henderson City Attorney's Office.....267-1370

(Criminal Division)

Boulder City
Office of the City Attorney.....293-9238
Las Vegas City Attorney's Office.....229-6629
Mesquite City Attorney's Office.....(702) 346-5295
North Las Vegas
City Attorney's Office.....633-1050

Nevada Criminal History
Records Repository.....(775) 684-6262

THE FOLLOWING FORMS ARE FOR EXAMPLE
PURPOSES ONLY

The Stipulation, Petition and Order must be substantially similar to the examples attached. If the Petitioner has questions not resolved upon review of this booklet they should contact a private attorney for advice.

PETITIONER NAME
ADDRESS
CITY, STATE ZIP
PHONE #
APPEARING IN PROPER PERSON

**HENDERSON MUNICIPAL COURT
CLARK COUNTY, NEVADA**

In the Matter of the Application of)
)
PETITIONER'S NAME)
SOCIAL SECURITY #SSN) Case No.
) Dept. No.
)
)
)
)
For an Order to Seal Records.)
)
_____)

ORDER

Pursuant to the Petition of PETITIONER'S NAME, the Petitioner, and the Stipulation to seal records by and Between Petitioner and the City Attorney for the City Of Henderson, Clark County, Nevada, and the Court finding that the statutory requirements of NRS 179.245 and/or 179.255 are satisfied, and good cause appearing therefore:

IT IS HEREBY ORDERED that the following records relating to misdemeanor charges filed in the Henderson Municipal Court be sealed:

Henderson Police DR #:
Date of Arrest:
Charge:
Court Case #:
Final Disposition:
Date of Final Disposition:

A copy of this Order shall be sent by petitioner to each public or private company, agency or official of the State of Nevada, including but not limited to, Henderson Police Department Records Division, and the Office of the City Attorney,

Henderson, Nevada as named in the Petition, and such organization or individual shall seal the records in its custody which relate to the matters contained in this Order, shall advise the Court of its compliance, and shall then seal the Order. All proceedings recounted in the sealed records are deemed never to have occurred, and Petitioner may properly answer accordingly to any inquiry concerning the sealed arrest, conviction, or acquittal.

DATED this _____ day of _____, 20_____.

MUNICIPAL COURT JUDGE

Filed by:

PETITIONER'S NAME

Approved as to form and content:

JOSH M. REID
HENDERSON CITY ATTORNEY

Assistant City Attorney
NV Bar Number _____
243 Water Street, MS711
P.O. Box 95050
Henderson, NV 89009-5050

PETITIONER'S NAME
ADDRESS
CITY, STATE
PHONE #
APPEARING IN PROPER PERSON

**HENDERSON MUNICIPAL COURT
CLARK COUNTY, NEVADA**

In the Matter of the Application of)
)
PETITIONER'S NAME)
SOCIAL SECURITY #SSN)
) Case No.
) Dept. No.
)
Petition For an Order)
to Seal Records.)
)
_____)

PETITION TO SEAL RECORDS

COMES NOW (PETITIONER'S NAME), the Petitioner, pursuant to the provisions of NRS 179.245 and/or 179.255 and respectfully represents the following.

That the Petitioner was arrested as follows:

Henderson Police DR #:
Date of Arrest:
Charge:
Court Case #:
Final Disposition:
Date of Final Disposition:

That the statutory time periods have been fulfilled and that, in the period prescribed for any convictions, (or dismissal or acquittal) the petitioner has not been arrested, except for minor moving or standing traffic violations, and that further action will not be brought concerning any arrests resulting in dismissal or acquittal.

WHEREFORE, Petitioner prays for an Order sealing all records of this matter which are presently in the custody of this Court, or official of the State of Nevada, including but not limited to, Nevada Criminal History Records Repository

and Henderson Police Department, and Office of the City Attorney, Henderson,
Nevada.

DATED this __ day of _____, 20 ____.

PETITIONER NAME

SUBSCRIBED & SWORN to before me

this ____ day of _____, _____

NOTARY PUBLIC

PETITIONER'S NAME
ADDRESS
CITY, STATE ZIP
Phone Number
IN PROPER PERSON

**HENDERSON MUNICIPAL COURT
CLARK COUNTY, NEVADA**

In the Matter of the Application of)
)
PETITIONER'S NAME)
SOCIAL SECURITY #: SSN)
) Case No.
) Dept. No.
)
)
For an Order to Seal Records.)
_____)

STIPULATION TO SEAL RECORDS

IT IS HEREBY STIPULATED AND AGREED by and between
PETITIONER, and the Office of the City Attorney for Henderson, Clark County,
Nevada, that the records of arrest, conviction, acquittal, or dismissal, more
specifically referred to in the Petition to Seal Records on file herein, be sealed pursuant to
NRS 179.245 and/or NRS 179.255.

IT IS FURTHER STIPULATED AND AGREED that no hearing is necessary
in this matter, and that it may be submitted to the court for a decision.

DATED this _____ day of _____, 20__.

PETITIONER'S NAME

Name
Address
Telephone #

JOSH M. REID
HENDERSON CITY ATTORNEY

Assistant City Attorney
NV Bar Number
243 Water Street, MS 711
P.O. Box 95050
Henderson, NV 89009-5050