

ASSEMBLY BILL NO. 345—ASSEMBLYWOMAN MILLER

MARCH 20, 2017

Referred to Committee on Corrections,  
Parole, and Probation

SUMMARY—Provides for the vacating of certain judgments of conviction relating to marijuana. (BDR 14-745)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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.

AN ACT relating to criminal procedure; providing for the vacating of certain judgments of conviction relating to marijuana; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes a court to grant a motion to vacate a judgment of  
2 conviction in certain circumstances. (NRS 176.515) This bill additionally  
3 authorizes a court to grant a motion to vacate a judgment of conviction if: (1) the  
4 judgment is a conviction for a violation of any provision of law concerning certain  
5 offenses involving marijuana and the act constituting the offense is a lawful act in  
6 this State on or after January 1, 2017; and (2) the court notifies the prosecuting  
7 attorney who prosecuted the defendant for the crime and allows the prosecuting  
8 attorney to testify and present evidence before the court decides whether to grant  
9 the motion. This bill also requires a court to grant a motion to vacate a judgment of  
10 conviction if the judgment is a conviction for the possession of 1 ounce or less of  
11 marijuana.

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

1 **Section 1.** NRS 176.515 is hereby amended to read as follows:  
2 176.515 1. The court may grant a new trial to a defendant if  
3 required as a matter of law or on the ground of newly discovered  
4 evidence.  
5 2. If trial was by the court without a jury, the court may vacate  
6 the judgment if entered, take additional testimony and direct the  
7 entry of a new judgment.



1 3. Except as otherwise provided in NRS 176.09187, a motion  
2 for a new trial based on the ground of newly discovered evidence  
3 may be made only within 2 years after the verdict or finding of guilt.

4 4. A motion for a new trial based on any other grounds must be  
5 made within 7 days after the verdict or finding of guilt or within  
6 such further time as the court may fix during the 7-day period.

7 5. *The court:*

8 (a) *Shall grant a motion to vacate a judgment if the judgment*  
9 *is a conviction for the possession of 1 ounce or less of marijuana*  
10 *in violation of subsection 4 of NRS 453.336.*

11 (b) *Except as otherwise provided in paragraph (a), may grant a*  
12 *motion to vacate a judgment if the judgment is a conviction for a*  
13 *violation of any provision of law concerning an offense involving*  
14 *marijuana, if the act constituting the offense is a lawful act in this*  
15 *State on or after January 1, 2017.*

16 6. The court may grant a motion to vacate a judgment if:

17 (a) The judgment is a conviction for a violation of:

18 (1) NRS 201.354, for engaging in prostitution or solicitation  
19 for prostitution, provided that the defendant was not alleged to be a  
20 customer of a prostitute;

21 (2) NRS 207.200, for unlawful trespass;

22 (3) Paragraph (b) of subsection 1 of NRS 463.350, for  
23 loitering; or

24 (4) A county, city or town ordinance, for loitering for the  
25 purpose of solicitation or prostitution;

26 (b) The participation of the defendant in the offense was the  
27 result of the defendant having been a victim of:

28 (1) Trafficking in persons as described in the Trafficking  
29 Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

30 (2) Involuntary servitude as described in NRS 200.463 or  
31 200.4631; and

32 (c) The defendant makes a motion under this subsection with  
33 due diligence after the defendant has ceased being a victim of  
34 trafficking or involuntary servitude or has sought services for  
35 victims of such trafficking or involuntary servitude.

36 ~~6.1~~ 7. In deciding whether to grant a motion made pursuant  
37 to :

38 (a) *Paragraph (b) of subsection 5, the court must notify the*  
39 *prosecuting attorney who prosecuted the defendant for the crime*  
40 *and allow the prosecuting attorney to testify and present evidence*  
41 *before the court decides whether to grant the motion.*

42 (b) *Subsection 6, the court shall take into consideration any*  
43 *reasonable concerns for the safety of the defendant, family members*  
44 *of the defendant or other victims that may be jeopardized by the*  
45 *bringing of such a motion.*



- 1 ~~7~~ 8. If the court grants a motion made pursuant to subsection  
2 ~~5~~ or 6, the court:  
3 (a) Shall vacate the judgment and dismiss the accusatory  
4 pleading; and  
5 (b) May take any additional action that the court deems  
6 appropriate under the circumstances.  
7 **Sec. 2.** This act becomes effective on July 1, 2017.

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