

House Bill 2669

Sponsored by COMMITTEE ON JUDICIARY (at the request of Office of Public Defense Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends filing deadline for petition for post-conviction relief when petitioner has filed petition for certiorari to United States Supreme Court.

A BILL FOR AN ACT

1
2 Relating to filing date of petition for post-conviction relief; amending ORS 138.510.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 138.510 is amended to read:

5 138.510. (1) Except as otherwise provided in ORS 138.540, any person convicted of a crime under
6 the laws of this state may file a petition for post-conviction relief pursuant to ORS 138.510 to
7 138.680.

8 (2) A petition for post-conviction relief may be filed by one person on behalf of another person
9 who has been convicted of aggravated murder and sentenced to death only if the person filing the
10 petition demonstrates by a preponderance of the evidence that:

11 (a) The person sentenced to death is unable to file a petition on the person's own behalf due to
12 mental incapacity or because of a lack of access to the court; and

13 (b) The person filing the petition has a significant relationship with the person sentenced to
14 death and will act in the best interest of the person on whose behalf the petition is being filed.

15 (3) A petition pursuant to ORS 138.510 to 138.680 must be filed within two years of the following,
16 unless the court on hearing a subsequent petition finds grounds for relief asserted which could not
17 reasonably have been raised in the original or amended petition:

18 (a) If no appeal is taken, the date the judgment or order on the conviction was entered in the
19 register.

20 (b) If an appeal is taken, the date the appeal is final in the Oregon appellate courts.

21 (c) **If a petition for certiorari to the United States Supreme Court is filed, the later of:**

22 **(A) The date of denial of certiorari, if the petition is denied; or**

23 **(B) The date of entry of a final state court judgment following remand from the United**
24 **States Supreme Court.**

25 (4) A one-year filing period shall apply retroactively to petitions filed by persons whose con-
26 victions and appeals became final before August 5, 1989, and any such petitions must be filed within
27 one year after November 4, 1993. A person whose post-conviction petition was dismissed prior to
28 November 4, 1993, cannot file another post-conviction petition involving the same case.

29 (5) The remedy created by ORS 138.510 to 138.680 is available to persons convicted before May
30 26, 1959.

31 (6) In any post-conviction proceeding pending in the courts of this state on May 26, 1959, the

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 person seeking relief in such proceedings shall be allowed to amend the action and seek relief under
2 ORS 138.510 to 138.680. If such person does not choose to amend the action in this manner, the law
3 existing prior to May 26, 1959, shall govern the case.

4
