

**ORS 144.650**

(1) When an application for a pardon, commutation or remission is made to the Governor, a copy of the application, signed by the person applying and stating fully the grounds of the application, shall be served upon:

(a) The district attorney of the county where the conviction was had;

(b) If the person applying is housed in a correctional facility within the State of Oregon, the district attorney of the county in which the correctional facility is located;

(c) The State Board of Parole and Post-Prison Supervision; and

(d) The Director of the Department of Corrections.

(2) Proof by affidavit of the service shall be presented to the Governor.

**(3) Upon receiving a copy of the application for pardon, commutation or remission, the district attorney shall:**

**(a) Notify the victim of the crime of the application and their right to provide any information relevant to the governor's decision.**

**(b) Provide the governor's office with any information relevant to the governor's decision that the victim wishes to have provided**

**(c) Provide to the governor's office the following records:**

**1. Police and other investigative reports;**

**2. Charging instrument;**

**3. Plea petition (if applicable);**

**4. Sentencing judgment;**

**5. Any victim impact statements filed or submitted;**

**6. Documents evidencing payment or nonpayment of restitution or compensatory fines ordered**

(4) Upon receiving a copy of the application for pardon, commutation or remission, any person or agency named in subsection (1) of this section shall provide to the Governor as soon as practicable such information and records relating to the case as the Governor may request and shall provide further information and records relating to the case that the person or agency considers relevant to the issue of pardon, commutation or remission, including but not limited to:

(a) Statements *[by the victim of the crime or]* any member of the victim's immediate family, as defined in ORS 163.730;

(b) A statement by the district attorney of the county where the conviction was had; and

(c) Photos of the victim and the autopsy report, if applicable.

**(5) If the pardon is granted, any documents provided to the governor's office under subsection (3) and (4) of this provision shall be filed with the secretary of state pursuant to ORS 144.670.**

(6) Following receipt by the Governor of an application for pardon, commutation or remission, the Governor shall not grant the application for at least 30 days. Upon the expiration of 180 days, if the Governor has not granted the pardon, commutation or remission applied for, the application shall lapse. Any further proceedings for pardon, commutation or remission in the case shall be pursuant only to further application and notice.

#### **SB 388 A**

SECTION 1. (1) When the Governor grants a pardon, the Governor or the Governor's designee shall within 10 days notify the presiding judge of the circuit court of the county in which the pardoned conviction occurred **and the district attorney of the county in which the pardoned conviction occurred.**

**(2) Upon the granting of a pardon the records of those people convicted of a misdemeanor, a drug offense or class C felony shall be entitled to have their records of conviction and other official records in the case, including the records of arrest or citation sealed. For persons who have been convicted of Aggravated Murder, any degree of homicide, Attempted Murder, Attempted Aggravated Murder, Compelling Prostitution, Use of a Child in a Sex Act or any first or second degree person felony offense, the records shall not be sealed unless the pardoned individual can make a showing to the trial court that society would be better served by such a sealing.**

~~(2)~~ (3) Upon receipt of the notification described in subsection (1) of this section, the presiding judge shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge but excluding records of the pardon produced under ORS 144.650, 144.660 or 144.670. The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court.

**(3) (4) Upon receipt of the notification described in subsections (1 and 2) of this section, the district attorney shall notify the victim of the pardon and pending expunction.**

SECTION 2. Section 1 of this 2019 Act applies to pardons granted on or after the effective date of this 2019 Act.

SECTION 3. (1) Within one year of the effective date of this 2019 Act, the Governor or the Governor's designee shall review each pardon granted within the five years prior to the effective date of this 2019 Act and notify the presiding judge of the circuit court of the county in which the pardoned conviction occurred.

(2) Upon receipt of the notification described in subsection (1) of this section, the presiding judge shall issue an order sealing the record of conviction and other official records in the case pursuant to subsection (2) of this section, including the records of arrest, citation or charge but excluding records of the pardon produced under ORS 144.650, 144.660 or 144.670. The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court.

SECTION 4. (1) A person pardoned more than five years prior to the effective date of this may request, in writing, that the Governor initiate the process of sealing records relating to the pardoned conviction. The request must include the date of the pardon, the crime of conviction and the county in which the pardoned conviction occurred.

(2) Upon receipt of a request to seal records under subsections (1 and 2) of this section, the Governor or the Governor's designee shall confirm the information in the request and, upon confirmation, shall notify the presiding judge of the circuit court of the county in which the pardoned conviction occurred and the district attorney of the county in which the pardoned conviction occurred.

(3) Upon receipt of the notification described in subsection (2 3) of this section, the presiding judge shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge but excluding records of the pardon produced under ORS 144.650, 144.660 or 144.670. The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court.

(4) Upon receipt of the notification described in subsection (2) of this section, the district attorney shall notify the victim of the pardon and pending expunction.

**(5) For persons who have been convicted of Aggravated Murder, any degree of homicide, Attempted Murder, Attempted Aggravated Murder, Compelling Prostitution, Use of a Child in a Sex Act or any first or second degree person felony offense person and has been pardoned for these offenses is entitled to a hearing before the trial court to have their records sealed in the manner described in Subsections 2 and 3 of Section 1.**

**(6) Notwithstanding any other provision of the Act, if the state can demonstrate to the trial court that there is a legitimate state interest in preserving the police reports and other records, in order to conduct investigations of other defendants, co-defendants or suspects, a court may refuse to seal the records necessary to protect the state's interest in the investigation of the underlying crime.**