

B-Engrossed Senate Bill 388

Ordered by the House May 22
Including Senate Amendments dated March 4 and House Amendments
dated May 22

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

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.

Directs Governor or designee to notify **district attorney and** presiding judge of circuit court of county of conviction within 10 days of granting pardon. Directs Governor or designee to review pardons granted within five years prior to effective date of Act and notify **district attorney and** presiding judge of circuit court of county of conviction. Directs presiding judge to, upon receipt of notification, issue order sealing record of conviction and other official records of case. Exempts from sealing records related to pardon. **Directs district attorney to notify victim concerning pardon and sealing of records.**

Authorizes person granted pardon more than five years before effective date of Act to request that Governor initiate process of sealing records.

Directs district attorney to notify victim, and provide Governor with specified information, upon receiving copy of application for pardon, commutation or remission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to pardons; creating new provisions; amending ORS 144.650 and 144.670; and declaring an
3 emergency.

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

5 **SECTION 1. (1) When the Governor grants a pardon, the Governor or the Governor's**
6 **designee shall within 10 days notify:**

7 (a) **The presiding judge of the circuit court of the county in which the pardoned con-**
8 **viction occurred; and**

9 (b) **The district attorney of the county in which the pardoned conviction occurred.**

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

16 (3) **Upon receipt of the notification described in subsection (1)(b) of this section, the dis-**
17 **trict attorney shall notify the victim concerning the pardon and sealing of records.**

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

20 **SECTION 3. (1) Within one year after the effective date of this 2019 Act, the Governor**

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 or the Governor's designee shall review each pardon granted within the five years prior to
2 the effective date of this 2019 Act and notify:

3 (a) The presiding judge of the circuit court of the county in which the pardoned con-
4 viction occurred; and

5 (b) The district attorney of the county in which the pardoned conviction occurred.

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

12 (3) Upon receipt of the notification described in subsection (1)(b) of this section, the dis-
13 trict attorney shall notify the victim concerning the sealing of records.

14 **SECTION 4.** (1) A person pardoned more than five years prior to the effective date of this
15 2019 Act may request, in writing, that the Governor initiate the process of sealing records
16 relating to the pardoned conviction. The request must include the date of the pardon, the
17 crime of conviction and the county in which the pardoned conviction occurred.

18 (2) Upon receipt of a request to seal records under subsection (1) of this section, the
19 Governor or the Governor's designee shall confirm the information in the request and, upon
20 confirmation, shall notify:

21 (a) The presiding judge of the circuit court of the county in which the pardoned con-
22 viction occurred; and

23 (b) The district attorney of the county in which the pardoned conviction occurred.

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

30 (4) Upon receipt of the notification described in subsection (2)(b) of this section, the dis-
31 trict attorney shall notify the victim concerning the sealing of records.

32 **SECTION 5.** ORS 144.650 is amended to read:

33 144.650. (1) When an application for a pardon, commutation or remission is made to the Gover-
34 nor, a copy of the application, signed by the person applying and stating fully the grounds of the
35 application, shall be served upon:

36 (a) The district attorney of the county where the conviction [*was had*] occurred;

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

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

40 (d) The Director of the Department of Corrections.

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

42 (3) Upon receiving a copy of the application, the district attorney of the county where the
43 conviction occurred shall:

44 (a) Notify the victim of the crime concerning the application and the victim's right to
45 provide the Governor with any information relevant to the Governor's decision;

1 **(b) Provide the Governor with any information relevant to the Governor’s decision that**
2 **the victim wishes to have provided; and**

3 **(c) Provide the Governor with copies of the following documents:**

4 **(A) Police and other investigative reports;**

5 **(B) The charging instrument;**

6 **(C) The plea petition, if applicable;**

7 **(D) The judgment of conviction and sentence;**

8 **(E) Any victim impact statements submitted or filed; and**

9 **(F) Any documents evidencing the applying person’s payment or nonpayment of**
10 **restitution or compensatory fines ordered by the court.**

11 **[(3)] (4) In addition to providing the documents described in subsection (3) of this section,**
12 upon receiving a copy of the application for pardon, commutation or remission, any person or agency
13 named in subsection (1) of this section shall provide to the Governor as soon as practicable such
14 information and records relating to the case as the Governor may request and shall provide further
15 information and records relating to the case that the person or agency considers relevant to the
16 issue of pardon, commutation or remission, including but not limited to:

17 (a) Statements by the victim of the crime or any member of the victim’s immediate family, as
18 defined in ORS 163.730;

19 (b) A statement by the district attorney of the county where the conviction [*was had*]
20 **occurred; and**

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

22 **[(4)] (5) Following receipt by the Governor of an application for pardon, commutation or re-**
23 **mission, the Governor shall not grant the application for at least 30 days. Upon the expiration of**
24 **180 days, if the Governor has not granted the pardon, commutation or remission applied for, the**
25 **application shall lapse. Any further proceedings for pardon, commutation or remission in the case**
26 **shall be pursuant only to further application and notice.**

27 **SECTION 6. ORS 144.670 is amended to read:**

28 144.670. When the Governor grants a reprieve, commutation or pardon or remits a fine or
29 forfeiture, the Governor shall within 10 days thereafter file all the papers presented to the Governor
30 in relation thereto, **including any documents provided under ORS 144.650 (3) or (4),** in the office
31 of the Secretary of State, by whom they shall be kept as public records, open to public inspection.

32 **SECTION 7. Section 3 of this 2019 Act is repealed on January 2, 2022.**

33 **SECTION 8. This 2019 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
35 **on its passage.**

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