

## HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 388

By COMMITTEE ON JUDICIARY

May 22

1 On page 1 of the printed A-engrossed bill, line 2, after “pardons” insert “; creating new pro-  
2 visions; amending ORS 144.650 and 144.670; and declaring an emergency”.

3 Delete lines 4 through 23 and delete page 2 and insert:

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

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

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

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

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

17 **“SECTION 2. Section 1 of this 2019 Act applies to pardons granted on or after the effec-**  
18 **tive date of this 2019 Act.**

19 **“SECTION 3. (1) Within one year after the effective date of this 2019 Act, the Governor**  
20 **or the Governor’s designee shall review each pardon granted within the five years prior to**  
21 **the effective date of this 2019 Act and notify:**

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

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

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

31 **“(3) Upon receipt of the notification described in subsection (1)(b) of this section, the**  
32 **district attorney shall notify the victim concerning the sealing of records.**

33 **“SECTION 4. (1) A person pardoned more than five years prior to the effective date of**  
34 **this 2019 Act may request, in writing, that the Governor initiate the process of sealing re-**  
35 **ords relating to the pardoned conviction. The request must include the date of the pardon,**

1 the crime of conviction and the county in which the pardoned conviction occurred.

2 **“(2) Upon receipt of a request to seal records under subsection (1) of this section, the**  
3 **Governor or the Governor’s designee shall confirm the information in the request and, upon**  
4 **confirmation, shall notify:**

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

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

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

14 **“(4) Upon receipt of the notification described in subsection (2)(b) of this section, the**  
15 **district attorney shall notify the victim concerning the sealing of records.**

16 **“SECTION 5.** ORS 144.650 is amended to read:

17 **“144.650. (1) When an application for a pardon, commutation or remission is made to the Gov-**  
18 **ernor, a copy of the application, signed by the person applying and stating fully the grounds of the**  
19 **application, shall be served upon:**

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

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

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

24 **“(d) The Director of the Department of Corrections.**

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

26 **“(3) Upon receiving a copy of the application, the district attorney of the county where**  
27 **the conviction occurred shall:**

28 **“(a) Notify the victim of the crime concerning the application and the victim’s right to**  
29 **provide the Governor with any information relevant to the Governor’s decision;**

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

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

33 **“(A) Police and other investigative reports;**

34 **“(B) The charging instrument;**

35 **“(C) The plea petition, if applicable;**

36 **“(D) The judgment of conviction and sentence;**

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

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

40 **“[(3)] (4) In addition to providing the documents described in subsection (3) of this section,**  
41 **upon receiving a copy of the application for pardon, commutation or remission, any person or agency**  
42 **named in subsection (1) of this section shall provide to the Governor as soon as practicable such**  
43 **information and records relating to the case as the Governor may request and shall provide further**  
44 **information and records relating to the case that the person or agency considers relevant to the**  
45 **issue of pardon, commutation or remission, including but not limited to:**

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

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

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

6           “[(4)] **(5)** Following receipt by the Governor of an application for pardon, commutation or re-  
7 mission, the Governor shall not grant the application for at least 30 days. Upon the expiration of  
8 180 days, if the Governor has not granted the pardon, commutation or remission applied for, the  
9 application shall lapse. Any further proceedings for pardon, commutation or remission in the case  
10 shall be pursuant only to further application and notice.

11           “**SECTION 6.** ORS 144.670 is amended to read:

12           “144.670. When the Governor grants a reprieve, commutation or pardon or remits a fine or  
13 forfeiture, the Governor shall within 10 days thereafter file all the papers presented to the Governor  
14 in relation thereto, **including any documents provided under ORS 144.650 (3) or (4)**, in the office  
15 of the Secretary of State, by whom they shall be kept as public records, open to public inspection.

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

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

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