

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 420**

1 On page 1 of the printed bill, delete lines 4 through 28 and delete page
2 2 and insert:

3 **“SECTION 1. Section 2 of this 2019 Act is added to and made a part
4 of ORS 475B.005 to 475B.545.**

5 **“SECTION 2. (1) Notwithstanding ORS 137.225, a person with a
6 qualifying marijuana conviction may apply to the court in which the
7 judgment of conviction was entered for entry of an order setting aside
8 the conviction as provided in this section.**

9 **“(2)(a) The person may file a motion under this section at any time
10 following entry of judgment of conviction for a qualifying marijuana
11 conviction.**

12 **“(b) A person filing a motion under this section is not required to
13 pay the filing fee established under ORS 21.135 or any other fee, or file
14 a set of fingerprints.**

15 **“(c) No background check or identification by the Department of
16 State Police is required to set aside a conviction under this section.**

17 **“(3)(a) At the time of filing the motion, the person shall serve a
18 copy of the motion upon the office of the prosecuting attorney of the
19 jurisdiction in which the judgment of conviction was entered.**

20 **“(b) The prosecuting attorney, within 30 days after the filing of the
21 motion under paragraph (a) of this subsection, may file an objection**

1 to granting the motion only on the basis that the person's conviction
2 is not a qualifying marijuana conviction.

3 “(c) If no objection from the prosecuting attorney is received by the
4 court within 30 days after the filing of the motion, the court shall
5 grant the motion and enter an order as described in subsection (5) of
6 this section.

7 “(4) If the court receives an objection from the prosecuting attor-
8 ney, the court shall hold a hearing to determine whether the con-
9 viction sought to be set aside is a qualifying marijuana conviction. The
10 person has the burden of establishing, by a preponderance of the evi-
11 dence, that the conviction is a qualifying marijuana conviction. If the
12 court determines that the conviction is a qualifying marijuana con-
13 viction, the court shall grant the motion and enter an order as pro-
14 vided in subsection (5) of this section.

15 “(5) Upon granting a motion to set aside a qualifying marijuana
16 conviction under this section, the court shall enter an appropriate
17 order. Upon the entry of the order, the person for purposes of the law
18 shall be deemed not to have been previously convicted and the court
19 shall issue an order sealing the record of conviction and other official
20 records in the case, including the records of arrest, citation or charge.

21 “(6) The clerk of the court shall forward a certified copy of the or-
22 der to such agencies as directed by the court. A certified copy must
23 be sent to the Department of Corrections when the person has been
24 in the custody of the Department of Corrections. Upon entry of the
25 order, the conviction, arrest, citation, charge or other proceeding shall
26 be deemed not to have occurred, and the person may answer accord-
27 ingly any questions relating to its occurrence.

28 “(7) As used in this section:

29 “(a) ‘Prosecuting attorney’ means a district attorney or a city at-
30 torney with a prosecutorial function.

1 **“(b) ‘Qualifying marijuana conviction’ means a conviction for a**
2 **marijuana offense:**

3 **“(A) Based on conduct described in ORS 475B.301;**

4 **“(B) Committed prior to July 1, 2015; and**

5 **“(C) For which the person has completed and fully complied with**
6 **or performed the sentence of the court.”.**

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