

SB 388-A3
(LC 2751)
5/6/19 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of the Oregon Crime Victims Law Center)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 388**

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

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

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

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

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

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

18 **“(3) Upon receipt of the notification described in subsection (1)(b)
19 of this subsection, the district attorney shall notify the victim con-
20 cerning the pardon and sealing of records.**

21 **“SECTION 2. Section 1 of this 2019 Act applies to pardons granted**

1 on or after the effective date of this 2019 Act.

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

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

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

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

18 **“(3) Upon receipt of the notification described in subsection (1)(b)**
19 **of this subsection, the district attorney shall notify the victim con-**
20 **cerning the sealing of records.**

21 **“SECTION 4. (1) A person pardoned more than five years prior to**
22 **the effective date of this 2019 Act may request, in writing, that the**
23 **Governor initiate the process of sealing records relating to the par-**
24 **doned conviction. The request must include the date of the pardon, the**
25 **crime of conviction and the county in which the pardoned conviction**
26 **occurred.**

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

30 **“(a) The presiding judge of the circuit court of the county in which**

1 **the pardoned conviction occurred; and**

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

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

12 **“(4) Upon receipt of the notification described in subsection (2)(b)**
13 **of this subsection, the district attorney shall notify the victim con-**
14 **cerning the sealing of records.**

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

16 **“144.650. (1) When an application for a pardon, commutation or remission**
17 **is made to the Governor, a copy of the application, signed by the person**
18 **applying and stating fully the grounds of the application, shall be served**
19 **upon:**

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

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

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

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

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

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

30 **“(a) Notify the victim of the crime concerning the application and**

1 **the victim’s right to provide the Governor with any information rele-**
2 **vant to the Governor’s decision;**

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

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

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

7 **“(B) The charging instrument;**

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

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

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

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

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

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

23 **“(b) A statement by the district attorney of the county where the con-**
24 **viction [*was had*] **occurred; and****

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

26 **“[(4)] (5) Following receipt by the Governor of an application for pardon,**
27 **commutation or remission, the Governor shall not grant the application for**
28 **at least 30 days. Upon the expiration of 180 days, if the Governor has not**
29 **granted the pardon, commutation or remission applied for, the application**
30 **shall lapse. Any further proceedings for pardon, commutation or remission**

1 in the case shall be pursuant only to further application and notice.

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

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

9 **“SECTION 7. Section 3 of this 2019 Act is repealed on January 2,**
10 **2022.”.**

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