

SB 698 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/04/23

Action: Without recommendation as to passage, request rescission of subsequent referral to Ways and Means and request referral to Rules.

Vote: 3-2-0-0

Yeas: 3 - Gelser Blouin, Manning Jr, Prozanski

Nays: 2 - Linthicum, Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/2, 4/4

WHAT THE MEASURE DOES:

Directs the Oregon Judicial Department (OJD) to develop and implement an automated system for identifying eligible convictions, arrests, citations, charges, or judgments of guilty except for insanity to be sealed. Directs OJD to identify all eligible records within the electronic court record database that were created prior to February 1, 2025 and provide a list of eligible records to the presiding judge of the judicial district of which the record originated no later than February 15, 2025. Requires OJD to identify all eligible records monthly, beginning March 1, 2025, and provide a list to the presiding judge of the judicial district within 15 days of identifying the records. Requires the presiding judge of a judicial district to issue an order sealing all official records pertaining to a case within 30 days of receiving the list of eligible records. Defines eligible record as an official record pertaining to a conviction, arrest, citation, charge or judgment of guilty except for insanity relating to an offense if: the person who is the subject of the record is eligible to apply by motion for an order setting aside conviction, arrest, citation, charge or judgment under ORS 137.223 or 137.225; the court would be required to grant the motion assuming no objection; and all restitution has been paid. Provides that if there is insufficient evidence to determine if a record is eligible, OJD is to presume that a record is eligible if it is a violation or misdemeanor and there has been no proceeding that has occurred during the previous five years or ten years for a felony. Requires OJD to establish a website to confidentially allow a person to find out if their eligible record has been automatically sealed and to obtain a copy of the order sealing the record. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Not all criminal records are electronic
- Incarceration status is not a bar to automatic expungement
- How will victims be notified

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

ORS 137.221-137.226 governs set aside motions. A person has to proactively file a set aside motion and a person is eligible to file a set aside motion if they have been convicted of certain classes of felonies, misdemeanors, or violations or have been arrested or cited for those classes of crimes and meet certain qualifications. In some instances, a hearing is held and the court, after hearing arguments, makes certain findings granting or denying the motion to set aside. Under juvenile law, automatic expungement (set aside) is permissible for juvenile records for youth who have had contact with the juvenile department but have never been found to be within the jurisdiction of the juvenile court (i.e., arrest, citations, and referral records). Currently, ten states have some form of

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automatic sealing of records, including California, Utah, and Colorado.

Senate Bill 698 would eliminate the requirement for a person to proactively file for a motion to set aside for certain convictions, arrests, citations, charges, and judgments of guilty except for insanity (GEI). It would direct the Oregon Judicial Department (OJD) to develop an automated system for identifying eligible convictions, arrests, citations, charges, or judgments of GEI to be sealed. Violations and misdemeanors where no action has been taken or proceedings held within five years and felonies within ten years would be eligible. It would direct OJD to establish a website that allows people to determine if their eligible record has been automatically sealed and obtain a copy of the order sealing the record.

Senate Bill 698 would direct OJD to develop an automated system for identifying eligible criminal records to be sealed, and direct the court to seal the eligible records.