

SB 697 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/04/23

Action: Without recommendation as to passage 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: Revenue impact issued

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Meeting Dates: 3/2, 4/4

WHAT THE MEASURE DOES:

Eliminates ability for prosecuting attorney to object to a motion to set aside a conviction or a judgment of guilty except for insanity, but permits the court, on its own motion, to hold a hearing. Eliminates requirement for the person requesting a motion to set aside to submit a full set of fingerprints to the Department of State Police. Provides that a motion to set aside does not apply to dismissed traffic violations. Provides that the specified time period prior to a motion to set aside that a person is required to have no convictions applies only to motions to set aside convictions. Provides that a person's civil rights are restored if the court enters an order expunging the person's conviction. Provides that a person convicted of a sex crime under ORS 163A.140 (1)(a) and ORS 163A.140 (2) may move to expunge the conviction under the Act if the person has been relieved of the obligation to report as a sex offender by the State Board of Parole and Post-Prison Supervision. Allows the court to waive any remaining fines and fees owed. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Incarceration does not block expungement
- Expungement can be difficult to access

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under current law, a person who has been convicted of a qualifying offense and has fully complied with and performed the sentence of the court for the offense may apply by motion to the court for an order setting aside the conviction. The person must submit fingerprints to the Department of State Police and the prosecuting attorney may object to the motion. If the prosecuting attorney objects to the motion, a hearing will be set. When motioning to set aside a conviction, arrest, citation or charge, there is a look-back period which must be free of convictions. The look-back period is between one and seven years, depending on the class of crime of violation being set aside. A person who has been convicted of a sex crime may move to set aside their conviction if they have been relieved of the obligation to report as a sex offender by court order. After the hearing, the court determines whether setting aside the conviction, arrest, citation, or charge is warranted and enters an order with the necessary findings granting or denying the set aside motion.

Senate Bill 697 would eliminate the look-back period for arrests, citations, or charges so that a person may move to set aside an arrest, citation, or charge for any class of crime or violation without waiting the one to seven years if they have a previous conviction; eliminates the requirement for the person requesting the motion to submit fingerprints. It would also eliminate the ability of the prosecuting attorney to object to a motion to a set aside and make a hearing on the motion discretionary for the court. It permits a person who has been convicted of a sex

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crime to move to set aside their conviction if they have been relieved of the obligation to report as a sex offender by the State Board of Parole and Post-Prison Supervision.