

HB 2639 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/31

WHAT THE MEASURE DOES:

This measure modifies the process for setting aside convictions, abuse findings, dismissals, citations, and guilty except for insanity judgments.

Detailed Summary:

Financial considerations

- Prohibits the court from considering outstanding fines and fees, other than restitution and compensatory fines, when determining whether the person has fully complied with their sentence.
- Allows the court to waive any financial obligations, other than restitution or compensatory fines.
- Requires the court to waive such fines and fees if the associated offense is ten years or older.
- Sets the process for waiving financial obligations.

Set aside procedure

- Clarifies that if a criminal classification has been reduced by the court, the applicable time to wait for a set aside is the time for the reduced conviction's classification.
- Requires the prosecutor to notify both the court and petitioner when filing an objection to a motion and to indicate the bases for the objection.
- Establishes that a petitioner and the victim have 33 calendar days to request a hearing on any objection not involving an objection based on a petitioner's circumstances and behavior.
- Directs the court to hold a hearing if the prosecutor objects based on the petitioner's circumstances or behavior, or upon a request for a hearing by the petitioner or the victim.
- Directs the court to deny the set aside motion if no hearing request has been made and the prosecutor's objection is not based on the petitioner's circumstances and behavior.
- Requires a five-year waiting period to set aside contempt of court violations as to abuse or a person crime, a term defined by the measure.
- Requires the court, on a motion for set aside with no objections, to issue an order of set aside within 120 days after the conclusion of the prosecutor's objection period.
- Requires a court, if an objection was received, to finalize its order within 120 days of the hearing.
- Specifies that pursuant to a court's order of set aside, the individual shall be deemed to have not been previously convicted.
- Applies comparable procedure to set asides of judgments of guilty except for insanity.

Petitions excepted, reporting requirement, and effective date

- Disallows petitions for set asides as to:
 - Individuals with pending charges for crimes or contempt of court for violating an order related to abuse or a person crime;
 - Dismissed traffic violations; and
 - An arrest, citation, or charge for domestic violence, a sex crime, or any other person crime or Class A misdemeanor, violations of orders related to abuse or a person crime within the three years preceding the motion for set aside.
- Requires the Oregon Judicial Department to report to the Legislative Assembly's Judiciary Committee annually beginning in 2027 regarding set asides and the adequacy of resources.
- Applies to motions for set asides filed after the effective date.

This summary has not been adopted or officially endorsed by action of the committee.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

ORS 137.225 outlines when a person is eligible to set aside a conviction, citation, charge, or arrest. The eligibility requirements vary depending on several factors, including:

- Criminal classification (severity of the crime).
- Criminal history preceding the filing of the motion to set aside.
- Completion of the sentence imposed by the court.

A copy of the motion and a set of the person's fingerprints are served on the prosecuting attorney, who then has an opportunity to contest the motion. The court determines after a hearing whether setting aside the arrest, charge, citation, or conviction will be granted. The court must include an order sealing the record of conviction and other official records, and the petitioner is then legally deemed not to have been previously convicted.

Senate Bill 397 (2021) enacted several modifications to the set aside statute. Some of the modifications included reducing waiting periods for filing motions, eliminating filing fees, preventing prosecutors from negotiating a defendant's waiver of a future set aside motion in a guilty except for insanity plea, and modifying the legal standard for judicial consideration of a set aside motion.