

## HB 2677 -7 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Prepared By:** Kris Kolta, LPRO Analyst

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 3/11, 4/8

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#### WHAT THE MEASURE DOES:

This measure directs county juvenile departments to apply for expunction of individuals' juvenile records regarding specified misdemeanors and felonies, sets associated criteria and procedures, and adapts related statutes.

#### Detailed Summary:

##### **Automatic expunction criteria and initiation**

- Directs county juvenile departments to automatically file an application for expunction upon satisfaction of the following criteria:
  - The individual was subject to juvenile court jurisdiction for specified violent misdemeanors or felonies;
  - Since termination of the individual's sentence, parole, or probation, they have not been convicted of another Class A misdemeanor or felony;
  - No juvenile court, criminal proceeding, or investigation is pending against the individual;
  - The individual does not owe restitution; and
  - The individual was not convicted as a juvenile offender subject to a mandatory minimum sentence and not treated as an adult in a criminal court proceeding.
- Requires county juvenile departments, when the above criteria are met, to apply for expunction within 90 days following the passage of either four years after termination or the individual's 18<sup>th</sup> birthday, whichever is earlier.

##### **Expungable offenses**

- Applies to those felonies not enumerated in Section 5(1)(e)(J).
- Applies to misdemeanors involving violence, defined as assault in the fourth degree, strangulation, menacing, reckless endangerment, and a hate crime in the second degree.

##### **Notice to victims**

- Requires the juvenile department to make reasonable efforts to notify victims of crimes committed before the effective date when the associated perpetrator applies for expunction.
- Requires the district attorney or juvenile department, going forwards, to warn victims, before the crime is adjudicated, that the accused could someday become eligible for expunction.

##### **Clarification of existing law**

- Clarifies Senate Bill 519 (2023), codified as ORS 419A.261, and associated statutes, ORS 419A.260 to 419A.271, as to various provisions, including venue, notice, and the scope of expungable offenses.
- Requires a juvenile court, upon request, to appoint counsel for an individual in any expunction proceeding under ORS 419A.260 to 419A.271 as to both the associated application and proceedings.

##### **Applicability**

- Applies to the expunction of records created before, on or after the effective date.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

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

-7 This amendment modifies the process for expunction of individuals' juvenile records; sets additional criteria, procedures, and timelines; and clarifies various provisions.

Detailed Summary:

**Procedural timelines**

- Requires county juvenile departments, when the specified criteria are met, to apply for expunction within 90 days following the passage of 1) four years after termination, 2) the individual's 18<sup>th</sup> birthday, or 3) upon receiving a request to file an application for expunction from an individual who is over 18 years old on January 1, 2026, *whichever is later*.
- Requires notice of the expunction application to be served on the county district attorney.
- Directs the district attorney to file an objection within 30 days if they reasonably believe the expunction criteria are not satisfied.
- Sets a 60-day timeline for a juvenile court to grant expunction if no hearing is required.

**Additional expunction criteria**

- Prohibits a juvenile department from automatically filing an expunction application regarding first-degree arson, first- or second-degree robbery, second-degree assault, second-degree kidnapping, or child pornography.
- Sets additional criteria for expunction under ORS 419A.262, allowing expunction in a contested case hearing only if the individual has not been subject to a crime with a mandatory minimum sentence or treated as an adult, unless the individual was not convicted or the conviction was set aside.
- Clarifies that automatic expunction can only be granted to an individual 18 years or older and after four years following their most recent termination.
- Reserves the right of an individual to apply for expunction under ORS 419A.262 even if the automatic expunction criteria are not satisfied.

**Applicability and effective dates**

- Applies the amended automatic expunction process, set out in ORS 419A.261(4), to records created on or after the effective date.
- Applies the rest of the measure to records created before, on, or after the effective date.
- Takes effect on 91st day following adjournment sine die.

*REVENUE: Revenue impact issued*

*FISCAL: Fiscal impact issued*

**BACKGROUND:**

Oregon has a decentralized juvenile justice system with local county juvenile departments funded in each of the 36 counties. County juvenile departments provide both sanctions and services to youth ages 12-17 that are referred primarily by law enforcement agencies. Upon referral, juvenile departments evaluate and determine the proper disposition of each case, whether to proceed informally or to file a petition to proceed towards a formal juvenile court adjudication. Youth offenders who are unsuccessful on county probation or have committed very serious crimes may be committed to the custody of the Oregon Youth Authority for placement in a residential or youth correctional facility.

A juvenile adjudication creates a record and can be accessed by potential employers, landlords, and others. The existing process for expunction of juvenile records is found in ORS 419A.260-419A.271. After expunction, a person can legally state the record of adjudication never existed.

Senate Bill 519 (2023) expanded automatic expunction to certain misdemeanors and violations (not felonies). As to crimes not subject to automatic expunction, SB 519 reduced the number of years juveniles had to wait before applying for expunction from five to four years after termination.