

A-Engrossed
Senate Bill 420

Ordered by the Senate April 23
Including Senate Amendments dated April 23

Sponsored by Senator FREDERICK; Senator MANNING JR (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs Department of Justice to identify misdemeanor convictions for possession, delivery or manufacture of marijuana based on conduct that would not constitute crime under current law. Directs department to notify prosecuting attorney of qualifying conviction.]

[Directs prosecuting attorney to file motion to set aside conviction unless prosecuting attorney reasonably believes conviction does not qualify to be set aside. Directs courts to enter order setting aside conviction upon receipt of motion.]

[Sunsets January 1, 2024.]

Establishes procedures for persons with qualifying marijuana convictions to file motion requesting court to enter order setting aside conviction. Provides that fee, set of fingerprints or background check are not required for motion. Specifies grounds for objection and burden of proof.

A BILL FOR AN ACT

1
2 Relating to expungement of marijuana-related convictions.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 475B.010 to**
5 **475B.545.**

6 **SECTION 2. (1) Notwithstanding ORS 137.225, a person with a qualifying marijuana con-**
7 **viction may apply to the court in which the judgment of conviction was entered for entry**
8 **of an order setting aside the conviction as provided in this section.**

9 **(2)(a) The person may file a motion under this section at any time following entry of**
10 **judgment of conviction for a qualifying marijuana conviction.**

11 **(b) A person filing a motion under this section is not required to pay the filing fee es-**
12 **tablished under ORS 21.135 or any other fee, or file a set of fingerprints.**

13 **(c) No background check or identification by the Department of State Police is required**
14 **to set aside a conviction under this section.**

15 **(3)(a) At the time of filing the motion, the person shall serve a copy of the motion upon**
16 **the office of the prosecuting attorney of the jurisdiction in which the judgment of conviction**
17 **was entered.**

18 **(b) The prosecuting attorney, within 30 days after the filing of the motion under para-**
19 **graph (a) of this subsection, may file an objection to granting the motion only on the basis**
20 **that the person's conviction is not a qualifying marijuana conviction.**

21 **(c) If no objection from the prosecuting attorney is received by the court within 30 days**
22 **after the filing of the motion, the court shall grant the motion and enter an order as de-**
23 **scribed in subsection (5) of this section.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) If the court receives an objection from the prosecuting attorney, the court shall hold
2 a hearing to determine whether the conviction sought to be set aside is a qualifying
3 marijuana conviction. The person has the burden of establishing, by a preponderance of the
4 evidence, that the conviction is a qualifying marijuana conviction. If the court determines
5 that the conviction is a qualifying marijuana conviction, the court shall grant the motion and
6 enter an order as provided in subsection (5) of this section.

7 (5) Upon granting a motion to set aside a qualifying marijuana conviction under this
8 section, the court shall enter an appropriate order. Upon the entry of the order, the person
9 for purposes of the law shall be deemed not to have been previously convicted and the court
10 shall issue an order sealing the record of conviction and other official records in the case,
11 including the records of arrest, citation or charge.

12 (6) The clerk of the court shall forward a certified copy of the order to such agencies as
13 directed by the court. A certified copy must be sent to the Department of Corrections when
14 the person has been in the custody of the Department of Corrections. Upon entry of the or-
15 der, the conviction, arrest, citation, charge or other proceeding shall be deemed not to have
16 occurred, and the person may answer accordingly any questions relating to its occurrence.

17 (7) As used in this section:

18 (a) “Prosecuting attorney” means a district attorney or a city attorney with a
19 prosecutorial function.

20 (b) “Qualifying marijuana conviction” means a conviction for a marijuana offense:

21 (A) Based on conduct described in ORS 475B.301;

22 (B) Committed prior to July 1, 2015; and

23 (C) For which the person has completed and fully complied with or performed the sen-
24 tence of the court.

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