

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 0
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	0
Prepared By:	Darian Stanford, Counsel
Meeting Dates:	1/24, 3/28

WHAT THE MEASURE DOES: Allows filing of late petition for appeal of circuit court’s denial of post-conviction relief (“PCR”) petition if lateness is not fault of petitioner. Amends procedural and administrative requirements of petitioner for PCR.

ISSUES DISCUSSED:

- Agreement between attorney general and defense bar

EFFECT OF COMMITTEE AMENDMENT: Deletes amendment to ORS 138.570 relating to a petitioner’s duty to give notice to district attorney.

BACKGROUND: Oregon law allows any person convicted of a crime and who has exhausted appeal rights to seek PCR. In short, a petitioner is entitled to PCR if the petitioner demonstrates that: (1) there was a substantial denial of the petitioner’s constitutional rights, (2) the sentencing court lacked jurisdiction, (3) the sentence was improper or (4) the statute on which the conviction was based is unconstitutional. A petitioner has two years from the date of the judgment or from the final Oregon appeal (whichever is later) to file the original petition for PCR in circuit court. Potential remedies for PCR include, but are not limited to release, a new trial or sentence modification.

Once a circuit court receives a petition for PCR, it conducts a hearing into the matter. If the court denies the petition, the petitioner then has 30 days to file an appeal with the Oregon Court of Appeals.

HB 2133 addresses this 30-day time period. A petitioner gets an additional 60 days to file if the petitioner shows that the lateness is not attributable to the petitioner and that there was a “colorable claim of error” in the proceeding from which the appeal is taken.

In addition, HB 2133 addresses a court’s ability to release a petitioner with a pending PCR appeal. It also specifies that a petitioner must give notice to the relevant district attorney both (1) of the original petition for PCR and (2) if the circuit court grants PCR.