

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass the A-Engrossed Measure
Vote:	3 - 2 - 0
Yeas:	Prozanski, Walker, Burdick
Nays:	Beyer, Kruse
Exc.:	0
Prepared By:	Darian Stanford, Counsel
Meeting Dates:	5/7

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:

- Nature of PCR proceedings
- Alleged need for bill arises when defense attorney at trial is different that defense attorney who will handle PCR appeal

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Oregon law allows any person convicted of a crime and who has exhausted appeal rights to seek post-conviction relief (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 A 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.

HB 2133 A also addresses a court's ability to release a petitioner with a pending PCR appeal to situations in which: (1) the PCR court's judgment vacates the conviction or reduces the sentence imposed by the conviction; (2) the petitioner has completed any other incarceration sanction imposed; and (3) the petitioner would otherwise be entitled to immediate release from incarceration under the court's judgment.

Finally, HB 2133 A provides that, if a petitioner's claim is successful, the judgment is not enforceable in the petitioner's favor until the petitioner serves a certified copy of the judgment on the district attorney of the appropriate county and then causes the judgment to be entered in the appropriate circuit court.

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