

REVENUE: No revenue impact

FISCAL: No fiscal impact

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| <b>Action:</b>        | Do Pass and Be Placed on the Consent Calendar                                |
| <b>Vote:</b>          | 9 - 0 - 0  |
| <b>Yeas:</b>          | Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson |
| <b>Nays:</b>          | 0  |
| <b>Exc.:</b>          | 0  |
| <b>Prepared By:</b>   | Bill Taylor, Counsel   |
| <b>Meeting Dates:</b> | 2/26   |

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**WHAT THE MEASURE DOES:** Requires a petition for post-conviction relief to be filed within two years of: (1) The date the United States Supreme Court decided not to hear the defendant's petition; or (2) The date of entry of a final judgment by an Oregon state court following remand from the United States Supreme Court.

**ISSUES DISCUSSED:**

- Appeals question the rulings of the trial judge
- Post-conviction relief raises issues such as was the defendant given adequate legal representation

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** ORS 138.510 to 138.680 sets forth the process and procedure for filing a petition for post-conviction relief. A petition for post-conviction relief challenges the lawfulness of the criminal judgment or the proceedings upon which it is based. ORS 138.540. For example, the petitioner may challenge the judgment based on a claim that his or her attorney was inadequate and thus deprived the petitioner of a fair trial. This contrasts with a direct appeal where the issues are limited to review of the legal decisions of the trial judge.

Currently, a petition for post-conviction relief must be filed within two years of: (1) The date of the judgment of conviction if no appeal was taken; or (2) The date the appeal is final in the Oregon appellate courts. What current law does not address is when the defendant files a petition with the United States Supreme Court, an event that is highly likely if the defendant was convicted of aggravated murder and sentenced to death.