

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	3 - 1 - 1
Yeas:	Kruse, Prozanski, Burdick
Nays:	Beyer
Exc.:	Walker
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	5/3

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:

- Delay of the appeal
- Federal remedy

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.