

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed
Vote: 10 - 0 - 0
Yeas: Garrett, Hicks, Nolan, Olson, Schaufler, Tomei, Wand, Whisnant, Barker, Krieger
Nays: 0
Exc.: 0
Prepared By: Aaron Knott, Counsel
Meeting Dates: 2/21, 3/28

WHAT THE MEASURE DOES: Modifies the period of time within which a person may petition the court to set aside record of an arrest.

ISSUES DISCUSSED:

- Whether the motion to set aside can be repeated every five years
- Which crimes would be eligible

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill.

BACKGROUND: ORS 137.225(b) allows that at any time after the lapse of one year from the date of any arrest, if no accusatory instrument is filed, or at any time after the dismissal of a charge, an arrested person may petition the court by motion for an entry of an order setting aside the record of an arrest. This is not permitted if the individual has been arrested within the three-year period immediately preceding the filing of the motion to set aside for any offense except motor vehicle violations.

House Bill 2698 A modifies this provision to state that an arrest that has been set aside under this section may not be considered for the purpose of determining whether there has been an arrest within the last three years. As a practical matter, this means that an arrested person may make a motion to set aside an arrest and, if that motion is granted, the arrest will not count against them in the instance of a subsequent arrest and motion to set that arrest aside, even if the previous arrest occurred within three years of the new offense.