

PRELIMINARY STAFF MEASURE SUMMARY

CARRIER:

Senate Committee on Judiciary

REVENUE: May have revenue impact, statement not yet issued**FISCAL:** May have fiscal impact, statement not yet issued**SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Eric Deitrick, Counsel**Meeting Dates:** 2/25, 3/5

WHAT THE MEASURE DOES: Requires court to consider current classification of marijuana offense in order to determine whether a conviction is eligible to be set aside. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed (-2) amendment clarifies the underlying bill and directs the court to use the classification of marijuana offense as it would have been classified on July 1, 2013. It also reinstates a previous provision of ORS 161.705 that had been removed by Senate Bill 40. That provision permits Class B felony possession offenses to be reduced to misdemeanors.

BACKGROUND: In 2013, the Oregon Legislature passed Senate Bill 40, which reclassified marijuana offenses. Specifically, Senate Bill 40 lowered the classification of most marijuana offenses to either Class C or Class B felony offenses. The classification has implications for whether an offense can be set aside or “expunged.” Section 12 of Senate Bill 40 makes the reclassifications apply to conduct occurring on or after the effective date of the bill, which was July 1, 2013. In addition, the reclassification of marijuana offenses by Senate Bill 40 eliminated a provision under ORS 161.705 that permitted Class B felony possession offenses to be reduced to misdemeanors.

Senate Bill 364, with the (-2) amendment, requires the court to consider these new classifications of marijuana offenses when considering an expungement, regardless of when the conduct occurred. This permits offenders who committed marijuana offenses prior to passage of SB 40 to use the new classifications in seeking an expungement. Senate Bill 364 also reinstates the provision of ORS 161.705 that permits Class B felony possession offenses to be reduced to misdemeanors.