

**A-Engrossed**  
**House Bill 2367**

Ordered by the House April 20  
Including House Amendments dated April 20

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Law Commission)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Establishes Task Force on Adopting the Uniform Collateral Consequences of Conviction Act. Directs Oregon Law Commission to provide support to task force. Requires task force to report to Legislative Assembly by September 15, 2016.]*

*[Sunsets December 31, 2016.]*

**Establishes Collateral Consequences Commission. Directs commission to review Oregon Constitution, statutes and rules, identify provisions that impose collateral consequences for criminal convictions and prepare collection of provisions. Directs Oregon Criminal Justice Commission to provide collection of collateral consequences provisions to public on Internet website.**

**Directs court to provide at arraignment written notice to defendant of collateral consequences. Requires court to confirm receipt of notice prior to trial or plea. Requires further notice of collateral consequences at sentencing and prior to release from incarceration in certain circumstances.**

**Requires summons alleging that youth is within jurisdiction of juvenile court to contain written notice of collateral consequences. Requires court to confirm receipt of notice at youth's first court appearance and prior to trial or admission. Requires further notice of collateral consequences at time of disposition and prior to release from detention in certain circumstances.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to adopting the Uniform Collateral Consequences of Conviction Act; creating new provisions; amending ORS 419C.303; and declaring an emergency.

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4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The Legislative Assembly finds that:**

6 (1) **The Uniform Collateral Consequences of Conviction Act contains principles that allow**  
7 **persons accused of crimes to understand the effects of their decisions;**

8 (2) **The State of Oregon currently lacks a comprehensive system that provides notice of**  
9 **the collateral consequences of criminal convictions to persons accused of crimes; and**

10 (3) **The principles of the Uniform Collateral Consequences of Conviction Act should be**  
11 **adopted in Oregon in a manner that acknowledges current provisions of law specific to this**  
12 **state.**

13 **SECTION 2. Sections 1 to 9 of this 2015 Act shall be known and may be cited as the**  
14 **Collateral Consequences of Conviction and Juvenile Adjudication Act.**

15 **SECTION 3. As used in sections 1 to 9 of this 2015 Act:**

16 (1) **"Adjudication" means a finding that a person is within the jurisdiction of the juvenile**  
17 **court under ORS 419C.005.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) "Admission" means a formal acknowledgement of facts showing a youth offender to  
2 be within the jurisdiction of the juvenile court as provided in ORS 419C.005.

3 (3) "Collateral consequence" means a collateral sanction or a disqualification.

4 (4)(a) "Collateral sanction" means a penalty, disability or disadvantage, imposed on a  
5 person as a result of the person's conviction or adjudication for an offense, that applies by  
6 operation of law, whether or not the penalty, disability or disadvantage is included in the  
7 judgment of conviction, adjudication, disposition or sentence.

8 (b) "Collateral sanction" does not include:

9 (A) Imprisonment or commitment to a youth correction facility;

10 (B) Probation, post-prison supervision, parole or other supervised release; or

11 (C) Forfeiture, restitution, fines, assessments, attorney fees or other costs of prose-  
12 cution.

13 (5) "Decision maker" means the state, acting through a department, agency, officer or  
14 other instrumentality, including a political subdivision, board, commission or employee.

15 (6) "Disposition" means an order directing the disposition of a case made by a juvenile  
16 court pursuant to ORS 419C.411.

17 (7) "Disqualification" means a penalty, disability or disadvantage that a decision maker  
18 is authorized, but not required, to impose on a person as a result of the person's conviction  
19 or adjudication for an offense.

20 (8) "Offense" means a felony, misdemeanor or violation, or an act committed by a person  
21 under 18 years of age that, if committed by an adult, would constitute a violation of a law  
22 or ordinance of the United States or a state, county or city.

23 **SECTION 4.** (1) The Collateral Consequences Commission is established, consisting of  
24 nine members appointed as follows:

25 (a) The Chief Justice of the Supreme Court shall appoint two members.

26 (b) The Legislative Counsel shall appoint two members.

27 (c) The Attorney General shall appoint two members, including one district attorney.

28 (d) The chairperson of the Public Defense Services Commission shall appoint two mem-  
29 bers.

30 (e) The Director of the Oregon Department of Administrative Services shall appoint one  
31 member.

32 (2) The Oregon Criminal Justice Commission shall provide staff support to the Collateral  
33 Consequences Commission.

34 (3) A majority of the members of the Collateral Consequences Commission constitutes a  
35 quorum for the transaction of business.

36 (4) Official action by the Collateral Consequences Commission requires the approval of a  
37 majority of the members of the commission.

38 (5) The Collateral Consequences Commission shall elect one of its members to serve as  
39 chairperson.

40 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
41 ment to become immediately effective.

42 (7) The Collateral Consequences Commission shall meet at times and places specified by  
43 the call of the chairperson or of a majority of the members of the commission.

44 (8) All agencies of state government, as defined in ORS 174.111, are directed to assist the  
45 Collateral Consequences Commission in the performance of its duties and, to the extent

1 permitted by laws relating to confidentiality, to furnish such information and advice as the  
2 members of the commission consider necessary to perform their duties.

3 (9) The Collateral Consequences Commission shall:

4 (a) Identify or cause to be identified all provisions in the Oregon Constitution, the Oregon  
5 Revised Statutes and the Oregon Administrative Rules that impose a collateral sanction or  
6 authorize the imposition of a disqualification, and any provision of law that may afford relief  
7 from a collateral consequence;

8 (b) No later than two years after the effective date of this 2015 Act, prepare or cause to  
9 be prepared a collection of citations to, and the text or short descriptions of, the provisions  
10 described in paragraph (a) of this subsection; and

11 (c) Update or cause to be updated the collection described in paragraph (b) of this sub-  
12 section by February 1 of each year.

13 (10) In fulfilling the obligations described in subsection (9) of this section, the Collateral  
14 Consequences Commission:

15 (a) May use the study of this state's collateral sanctions, disqualifications and relief  
16 provisions prepared by the National Institute of Justice as described in section 510 of the  
17 Court Security Improvement Act of 2007 (P.L. 110-177).

18 (b) Shall consult, as needed, with representatives of the following agencies or groups:

19 (A) The Department of Corrections;

20 (B) The Oregon Association of Community Corrections Directors;

21 (C) The Oregon Juvenile Department Directors' Association;

22 (D) The Oregon Youth Authority;

23 (E) The adult and juvenile panels of the Psychiatric Security Review Board; and

24 (F) The Oregon District Attorneys Association.

25 (11)(a) The Oregon Criminal Justice Commission shall publish or cause to be published  
26 the collection prepared and updated as required by subsection (9) of this section.

27 (b) The Oregon Criminal Justice Commission shall make the collection described in sub-  
28 section (9) of this section available to the public without charge on an Internet website no  
29 later than 30 days after the collection is created or updated.

30 (12) As a preface to the collection described in subsection (9) of this section, the Oregon  
31 Criminal Justice Commission shall include or cause to be included the following statements,  
32 which shall be displayed in a prominent manner at the beginning of the collection in sub-  
33 stantially the following form:

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36 **This collection has not been enacted into law and does not have the force of law.**

37 **An error or omission in this collection or in any reference work cited in this collection**  
38 **is not a reason for invalidating a plea, juvenile admission, conviction, juvenile adjudication,**  
39 **finding of guilty except for insanity, juvenile disposition or sentence or for not imposing a**  
40 **collateral sanction or not authorizing a disqualification.**

41 **The laws of other jurisdictions and local governments that impose additional collateral**  
42 **sanctions and authorize additional disqualifications are not included in this collection.**

43 **This collection does not include any law or other provision regarding the imposition of**  
44 **or relief from a collateral sanction or a disqualification enacted or adopted after [date of the**  
45 **last preparation or update of the collection].**

1 Only administrative rules filed on or before [date of last full rule review] have been in-  
2 cluded in this collection.

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5 (13) The Oregon Criminal Justice Commission may also publish or cause to be published,  
6 as part of the collection, the title and Internet address for the website of the most recent  
7 collection of:

- 8 (a) Collateral consequences imposed or authorized by federal law; and
- 9 (b) Any provision of federal law that may afford relief from a collateral consequence.

10 **SECTION 5.** (1) Sections 1 to 9 of this 2015 Act do not provide a basis for:

- 11 (a) Invalidating a plea, admission, conviction, adjudication, finding of guilty except for  
12 insanity, disposition or sentence;
- 13 (b) A cause of action for money damages; or
- 14 (c) A claim for relief from or defense to the application of a collateral consequence based  
15 on the failure to fulfill the requirements of section 6, 7, 8 or 9.

16 (2) Sections 1 to 9 of this 2015 Act do not affect:

- 17 (a) The duty a person's attorney owes the person;
- 18 (b) A claim or right of a victim of an offense; or
- 19 (c) A right or remedy under a law other than sections 1 to 9 of this 2015 Act available  
20 to a person convicted or adjudicated of an offense.

21 **SECTION 6.** (1) When a defendant appears for arraignment on an accusatory instrument,  
22 the court shall cause the defendant to be notified of the following information in substan-  
23 tially the following form:

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#### 24 25 26 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

27 If you plead guilty or are convicted of an offense, you may suffer additional legal conse-  
28 quences beyond jail or prison, probation, post-prison supervision, parole and fines. These  
29 consequences may include but are not limited to:

- 30 Being unable to get or keep some licenses, permits, jobs or volunteer positions;
- 31 Being unable to get or keep benefits such as public housing or financial assistance;
- 32 Having restricted access to public education and higher education;
- 33 Receiving a harsher sentence if you are convicted of another offense in the future;
- 34 Having the government take your property; and
- 35 Being unable to vote or possess a firearm.

36 If you are not a United States citizen, a criminal proceeding may also result in your  
37 deportation, removal or exclusion from admission to the United States or denial of citizen-  
38 ship.

39 The law may provide ways to obtain some relief from these consequences.

40 Further information about the consequences of conviction is available on the Internet  
41 at [Internet website address of collection as described in section 4 (11) of this 2015 Act] and  
42 by consulting your attorney.

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45 (2) Before the court proceeds to trial or accepts a plea of guilty or no contest from a

1 defendant, the court shall confirm that the defendant received and understands the notice  
2 described in subsection (1) of this section and has had an opportunity to discuss the notice  
3 with the defendant's attorney.

4 **SECTION 7.** (1) When a youth is issued a summons as described in ORS 419C.303, the  
5 summons must contain the following information in substantially the following form:

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8 **NOTICE OF ADDITIONAL LEGAL CONSEQUENCES**

9 If you are found to be within the juvenile court's jurisdiction under ORS 419C.005, you  
10 may suffer additional legal consequences beyond detention or incarceration, probation, parole  
11 and fines. These consequences may include but are not limited to:

12 Being unable to get or keep some licenses, permits, jobs or volunteer positions;

13 Being unable to get or keep benefits such as public housing or financial assistance;

14 Having restricted access to public education and higher education;

15 Receiving a harsher disposition or sentence if you are adjudicated or convicted of an of-  
16 fense in the future;

17 Having the government take your property; and

18 Being unable to possess a firearm.

19 If you are not a United States citizen, a juvenile delinquency proceeding may also result  
20 in your deportation, removal or exclusion from admission to the United States or denial of  
21 citizenship.

22 The law may provide ways to obtain some relief from these consequences.

23 Further information about the consequences of juvenile adjudication is available on the  
24 Internet at [Internet website address of collection as described in section 4 (11) of this 2015  
25 Act] and by consulting your attorney.

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28 (2) At the youth's first appearance in juvenile court, the court shall confirm that the  
29 youth and the parent or guardian of the youth have received the notice described in sub-  
30 section (1) of this section.

31 (3) Before the juvenile court proceeds to trial or accepts an admission, the court shall  
32 confirm that the youth and the parent or guardian of the youth have received and under-  
33 stand the notice described in subsection (1) of this section and that the youth has had an  
34 opportunity to discuss the notice with the youth's attorney.

35 **SECTION 8.** (1) A defendant convicted or found guilty except for insanity of an offense  
36 shall be given notice of the following information at the times described in subsections (2)  
37 and (3) of this section:

38 (a) That collateral consequences may apply because of the conviction;

39 (b) The Internet website address of the collection of provisions described in section 4 of  
40 this 2015 Act;

41 (c) That there may be ways to obtain relief from collateral consequences;

42 (d) The contact information for government or nonprofit agencies, groups or organiza-  
43 tions, if any, offering assistance to individuals seeking relief from collateral consequences;  
44 and

45 (e) That the person may vote only after release from incarceration.

1 (2) The court shall provide the notice described in subsection (1) of this section to a de-  
2 fendant at the time of sentencing.

3 (3) If a defendant is sentenced to a term of incarceration of more than six months or  
4 committed for a period of more than six months, the officer or agency releasing the de-  
5 fendant shall provide the notice described in subsection (1) of this section at least 10 days  
6 before release.

7 **SECTION 9.** (1) A youth offender found to be within the jurisdiction of the juvenile court  
8 as provided in ORS 419C.005 shall be given notice of the following information at the times  
9 described in subsections (2) and (3) of this section:

10 (a) That collateral consequences may apply because of the adjudication;

11 (b) The Internet website address of the collection of provisions described in section 4 of  
12 this 2015 Act;

13 (c) That there may be ways to obtain relief from collateral consequences;

14 (d) The contact information for government or nonprofit agencies, groups or organiza-  
15 tions, if any, offering assistance to individuals seeking relief from collateral consequences;  
16 and

17 (e) That the person, if convicted as an adult, may vote only after release from  
18 incarceration.

19 (2) The court shall provide the notice described in subsection (1) of this section to a  
20 youth offender at the time of disposition.

21 (3) If the disposition of a youth offender's case results in detention or commitment to a  
22 youth correction facility for a period of more than six months, the officer or agency releasing  
23 the youth offender shall provide the notice described in subsection (1) of this section at least  
24 10 days before release.

25 **SECTION 10.** ORS 419C.303 is amended to read:

26 419C.303. The summons shall be signed by a counselor or some other person acting under the  
27 direction of the court and shall contain the name of the court, the title of the proceeding, **the no-**  
28 **notice described in section 7 of this 2015 Act** and, except for a published summons, a brief statement  
29 of the substance of the facts required by ORS 419C.255 (1)(b). The summons shall also include a  
30 notice that the parent or other person legally obligated to support the youth may be required to pay,  
31 at some future date, for all or a portion of the support of the youth, including the cost of out-of-home  
32 placement, depending upon the ability of the parent to pay support.

33 **SECTION 11.** (1) Sections 5, 6, 7, 8 and 9 of this 2015 Act and the amendments to ORS  
34 419C.303 by section 10 of this 2015 Act become operative on January 1, 2018.

35 (2) A public body as defined in ORS 174.109 may take any action before the operative date  
36 specified in subsection (1) of this section that is necessary to enable the public body to ex-  
37 ercise, on and after the operative date specified in subsection (1) of this section, the duties,  
38 functions and powers conferred on the public body by sections 5, 6, 7, 8 and 9 of this 2015  
39 Act and the amendments to ORS 419C.303 by section 10 of this 2015 Act.

40 **SECTION 12.** This 2015 Act being necessary for the immediate preservation of the public  
41 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
42 on its passage.