

SB 249 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/15, 3/29

WHAT THE MEASURE DOES:

Allows for process to vacate prostitution conviction if person was victim of sex trafficking at time of conduct giving rise to conviction. Requires motion for vacating conviction include explanation of fact supporting claim that person is victim of sex trafficking and why such facts were not presented at trial. Requires copy of motion be given to district attorney. Requires court hold hearing upon receiving motion. Places burden of proof on person to show status as victim of sex trafficking. Specifies evidence of sex trafficking may include court records, certified immigration records recognizing person as victim of sex trafficking, and sworn statements from professionals certifying person sought assistance with trauma associated with sex trafficking. Requires court vacate conviction if clear and convincing evidence shows person was victim of sex trafficking. Allows court to vacate conviction if in the interest of justice to do so. Specifies additional criteria court may consider. Defines "sex trafficking."

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Requires motion to be filed at least 21 days after judgment of conviction entered. Eliminates authority for court to grant motion when "in interest of justice." Modifies definition of "sex trafficking."

BACKGROUND:

Sex trafficking is recruiting, enticing, harboring, transporting, providing, or obtaining a person for the purposes of a commercial sex act when the trafficked person is under 15 years of age or is over 15 years of age and forced, tricked, or coerced into commercial sex acts. See ORS 163.266. According to the National Human Trafficking Hotline, it received over 300 calls originating in Oregon in 2016, with 51 of those calls leading to cases of sex trafficking.

Senate Bill 249 provides an avenue for a person convicted of prostitution under ORS 167.007 to have the conviction erased from their record if the person shows they were the victim of sex trafficking at or near the time of the conduct giving rise to the prostitution conviction. In order to prevail, a person must file a motion, serve a copy upon the district attorney, and show by clear and convincing evidence that the person was the victim of sex trafficking.

Evidence of sex trafficking can include court records, immigration records, or sworn statements from professionals certifying that the person sought assistance with the trauma associated with sex trafficking. Additionally, the measure allows a court to grant the motion even if the person does not reach the evidentiary standard if it is in the interest of justice.