

Enrolled
Senate Bill 249

Sponsored by Senator TAYLOR, Representative HUFFMAN, Senators GELSER, KNOPP; Senators DEMBROW, MANNING JR, STEINER HAYWARD, THATCHER, Representatives KENNEMER, LININGER, NOBLE, STARK, VIAL, WHISNANT, WILLIAMSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to motions to vacate convictions.

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

SECTION 1. (1) A court may vacate a judgment of conviction for the crime of prostitution under ORS 167.007 as described in this section.

(2)(a) A person may request vacation of a judgment of conviction for prostitution by filing a motion in the county of conviction. The motion may be filed at least 21 days after the judgment of conviction is entered.

(b) A copy of the motion shall be served on the district attorney.

(c) The motion must contain an explanation of facts supporting a claim that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction. The motion must further contain an explanation of why those facts were not presented to the trial court.

(3) Upon receiving the motion described in subsection (2) of this section, the court shall hold a hearing. At the hearing, the person has the burden of proof and may present evidence that, at or around the time of the conduct giving rise to the prostitution conviction, the person was the victim of sex trafficking. The court shall consider any evidence the court deems of sufficient credibility and probative value in determining whether the person was a victim of sex trafficking. The evidence may include, but is not limited to:

(a) Certified records of a state or federal court proceeding demonstrating that the person was a victim of sex trafficking;

(b) Certified records from federal immigration proceedings recognizing the person as a victim of sex trafficking; and

(c) A sworn statement from a trained professional staff member of a victim services organization, an attorney, a member of the clergy or a medical or other professional, certifying that the person has sought assistance addressing trauma associated with being a sex trafficking victim.

(4) If the court finds, by clear and convincing evidence, that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction, the court shall grant the motion.

(5) If the court grants a motion under this section, the court shall vacate the judgment of conviction for prostitution and may make other orders as the court considers appropriate.

(6) If the court grants a motion under this section while an appeal of the judgment of conviction is pending, the court shall immediately forward a copy of the vacation order to the appellate court.

(7) As used in this section, "sex trafficking" means the use of force, intimidation, fraud or coercion to cause a person to engage, or attempt to engage, in a commercial sex act.

SECTION 2. Section 1 of this 2017 Act applies to judgments of conviction for prostitution entered before, on or after the effective date of this 2017 Act.

Passed by Senate April 5, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 25, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State