

# Senate Bill 249

Sponsored by Senator TAYLOR, Representative HUFFMAN (Presession filed.)

## 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 **as introduced**.

Establishes procedures for person to file motion to vacate judgment of conviction for prostitution if person was victim of sex trafficking at or around time of offense.

## A BILL FOR AN ACT

1  
2 Relating to motions to vacate convictions.

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

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

6 **(2)(a) A person may request vacation of a judgment of conviction for prostitution by filing**  
7 **a motion in the county of conviction. The motion may be filed at any time after the judgment**  
8 **of conviction is entered.**

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

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

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

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

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

24 **(c) A sworn statement from a trained professional staff member of a victim services or-**  
25 **ganization, an attorney, a member of the clergy or a medical or other professional, certifying**  
26 **that the person has sought assistance addressing trauma associated with being a sex traf-**  
27 **ficking victim.**

28 **(4)(a) If the court finds, by clear and convincing evidence, that the person was the victim**  
29 **of sex trafficking at or around the time of the conduct giving rise to the prostitution con-**  
30 **vicition, the court shall grant the motion.**

31 **(b) If the court does not make the finding described in paragraph (a) of this subsection,**

**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 the court may grant the motion if the court finds that vacation of the judgment of conviction  
2 is in the interest of justice. In deciding whether to grant the motion, the court may consider:

3 (A) Whether an earlier motion under this section was granted; and

4 (B) The criminal history of the person.

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

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

10 (7) As used in this section, “sex trafficking” means the recruitment, enticement, har-  
11 boring, transportation, provision or obtaining of another person for the purposes of a com-  
12 mercial sex act.

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

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