

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 497**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; and”.

3 On page 5, after line 1, insert:

4 **“SECTION 2. (1) If a person is arrested or issued a criminal citation
5 as a result of mistaken identity or another person using the identify-
6 ing information of the person, and:**

7 **“(a) The person is not charged with a crime as a result of the arrest
8 or citation, the law enforcement officer who arrested or cited the
9 person shall file with the court a motion to set aside the record of the
10 arrest or citation within one year of the arrest or issuance of the ci-
11 tation.**

12 **“(b) The charge against the person resulting from the arrest or ci-
13 tation is dismissed, the prosecutor shall file with the court a motion
14 to set aside the record of the arrest or citation within one year of the
15 dismissal.**

16 **“(2)(a) Upon receipt of a motion under subsection (1) of this section,
17 the court shall grant the motion and enter an order sealing the re-
18 cords of the arrest or citation.**

19 **“(b) The clerk of the court shall send a certified copy of the order
20 to:**

21 **“(A) The person’s last known address;**

1 **“(B) The Department of Corrections if the person has been in the**
2 **custody of the department;**

3 **“(C) The Department of Transportation if the crime for which the**
4 **person was arrested or cited is a traffic crime as defined in ORS**
5 **801.545; and**

6 **“(D) Other agencies as directed by the court.**

7 **“(3) Upon entry of an order under subsection (2) of this section, the**
8 **person who is the subject of the order is deemed not to have been ar-**
9 **rested or cited, the arrest or issuance of a citation is deemed not to**
10 **have occurred, and the person may answer accordingly any questions**
11 **related to the occurrence of the arrest or citation.**

12 **“(4) As used in this section, ‘mistaken identity’ means the errone-**
13 **ous arrest or citation of a person for a crime as the result of misi-**
14 **dentification by a witness or a law enforcement officer, confusion or**
15 **mistake as to the identity of the person who committed the crime on**
16 **the part of a witness or law enforcement officer, or misinformation**
17 **provided to a law enforcement officer as to the identity of the person**
18 **who committed the crime.”.**

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