

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 420 - B

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Establishes procedures for persons with qualifying marijuana convictions to file motion requesting court to enter order setting aside conviction.

Government Unit(s) Affected:

Department of Justice (DOJ), District Attorneys and their Deputies (DAs), Oregon Judicial Department (OJD), Department of Corrections (DOC)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

This bill allows a person convicted prior to July 1, 2015 of possession of less than one ounce of marijuana, delivery of marijuana without compensation, or manufacture of marijuana with less than 8 plants to file a motion with a court in the jurisdiction in which they were convicted to have that conviction set aside. The court would not charge any filing fees for the motion.

Oregon Judicial Department (OJD)

A person filing a motion under this bill would also serve a copy of the motion on the prosecuting attorney’s office that prosecuted the qualifying conviction. That prosecuting office would have 30 days to file an objection to the motion. The only grounds upon which the prosecuting office may object to the motion is that the conviction for which the person is seeking a set aside order is not a qualifying offense.

If the prosecuting office objects to the motion, then the court will hold a hearing to determine if the conviction the person is seeking a set aside order is a qualifying offense. If the court determines that the person does have a qualifying conviction, or if the prosecuting office does not object, then the court shall issue an order setting aside the qualifying conviction.

The set aside process outlined in the bill would be different from the existing set aside process and would require OJD to develop new procedures and forms to accommodate the new process. If the qualifying conviction is the only offense in the case, the set aside is more straightforward. If the qualifying conviction is not the only offense in the case, the set aside on one conviction among several in a case file becomes complicated. Staff must redact information in each document in the electronic case in a way that removes references to the qualifying conviction, while leaving all of the information relating to the other convictions in the case. There is no automatic way to do this. Additionally, for each motion that is challenged by the prosecuting attorney requiring a hearing, we anticipate at least 10 minutes of judge time.

The potential pool of individuals eligible to file a motion pursuant to this bill could be as large as 75,000. The possible impact of this new process on the Oregon Judicial Department could be significant, but since these motions may be filed at any time, the actual impact cannot be quantified at this time. If actual experience demonstrates a fiscal impact, OJD may need to request additional resources in the future.

District Attorneys

This fiscal impact to the District Attorneys, like the Oregon Judicial Department, is dependent on the number of motions filed. It is not possible to predict the number of cases that may be filed or in what timeframe. The fiscal impact to District Attorney's is indeterminate.

Department of Justice and Department of Corrections

The fiscal impact to the Department of Justice and Department of Corrections is anticipated to be minimal.