

Enrolled
Senate Bill 420

Sponsored by Senator FREDERICK; Senator MANNING JR, Representatives BYNUM, KENY-GUYER, WILLIAMSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to expungement of marijuana-related convictions.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 475B.010 to 475B.545.

SECTION 2. (1) Notwithstanding ORS 137.225, a person with a qualifying marijuana conviction may apply to the court in which the judgment of conviction was entered for entry of an order setting aside the conviction as provided in this section.

(2)(a) The person may file a motion under this section at any time following entry of judgment of conviction for a qualifying marijuana conviction.

(b) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135 or any other fee, or file a set of fingerprints.

(c) No background check or identification by the Department of State Police is required to set aside a conviction under this section.

(3)(a) At the time of filing the motion, the person shall serve a copy of the motion upon the office of the prosecuting attorney of the jurisdiction in which the judgment of conviction was entered.

(b) The prosecuting attorney, within 30 days after the filing of the motion under paragraph (a) of this subsection, may file an objection to granting the motion only on the basis that the person's conviction is not a qualifying marijuana conviction.

(c) If no objection from the prosecuting attorney is received by the court within 30 days after the filing of the motion, the court shall grant the motion and enter an order as described in subsection (5) of this section.

(4) If the court receives an objection from the prosecuting attorney, the court shall hold a hearing to determine whether the conviction sought to be set aside is a qualifying marijuana conviction. The person has the burden of establishing, by a preponderance of the evidence, that the conviction is a qualifying marijuana conviction. If the court determines that the conviction is a qualifying marijuana conviction, the court shall grant the motion and enter an order as provided in subsection (5) of this section.

(5) Upon granting a motion to set aside a qualifying marijuana conviction under this section, the court shall enter an appropriate order. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge.

(6) The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court. A certified copy must be sent to the Department of Corrections when the person has been in the custody of the Department of Corrections. Upon entry of the order, the conviction, arrest, citation, charge or other proceeding shall be deemed not to have occurred, and the person may answer accordingly any questions relating to its occurrence.

(7) As used in this section:

(a) "Prosecuting attorney" means a district attorney or a city attorney with a prosecutorial function.

(b) "Qualifying marijuana conviction" means a conviction for a marijuana offense:

(A) Based on conduct described in ORS 475B.301 or possession of less than one ounce of the dried leaves, stems or flowers of marijuana;

(B) Committed prior to July 1, 2015; and

(C) For which the person has completed and fully complied with or performed the sentence of the court.

Passed by Senate April 25, 2019

Received by Governor:

Repassed by Senate June 11, 2019

.....M.,....., 2019

Approved:

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Lori L. Brocker, Secretary of Senate

.....M.,....., 2019

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Peter Courtney, President of Senate

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Kate Brown, Governor

Passed by House June 4, 2019

Filed in Office of Secretary of State:

.....M.,....., 2019

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Tina Kotek, Speaker of House

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Bev Clarno, Secretary of State