

# Senate Bill 420

Sponsored by Senator FREDERICK (Pre-session 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**.

Directs Department of Justice to identify misdemeanor convictions for possession, delivery or manufacture of marijuana based on conduct that would not constitute crime under current law. Directs department to notify prosecuting attorney of qualifying conviction.

Directs prosecuting attorney to file motion to set aside conviction unless prosecuting attorney reasonably believes conviction does not qualify to be set aside. Directs courts to enter order setting aside conviction upon receipt of motion.

Sunset January 1, 2024.

## A BILL FOR AN ACT

1  
2 Relating to expungement of marijuana-related convictions.

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

4 **SECTION 1. (1) A misdemeanor conviction in this state for the possession, delivery or**  
5 **manufacture of marijuana items based on conduct that, if the conduct had occurred on the**  
6 **effective date of this 2019 Act, would not constitute a crime, shall be set aside as provided**  
7 **in this section.**

8 (2)(a) **On or before January 1, 2022, the Department of Justice shall review records of**  
9 **conviction and identify all misdemeanor convictions that are eligible to be set aside under**  
10 **this section.**

11 (b) **The Department of Justice shall have access to criminal offender information main-**  
12 **tained by the Department of State Police to carry out the provisions of this section.**

13 (c) **If the Department of Justice does not have access to sufficient information to deter-**  
14 **mine whether a conviction is eligible to be set aside under this section, the Department of**  
15 **Justice may request additional information from the prosecuting attorney and the court in**  
16 **which the conviction occurred.**

17 (d) **All prosecuting attorneys and courts shall respond to requests for information from**  
18 **the Department of Justice under this subsection and shall provide any information necessary**  
19 **to allow the Department of Justice to determine whether a conviction is eligible to be set**  
20 **aside under this section.**

21 (3)(a) **Upon identification of a misdemeanor conviction eligible to be set aside under this**  
22 **section, the Department of Justice shall notify the prosecuting attorney of the case number**  
23 **and the name of the defendant.**

24 (b) **Within 60 days of receiving a notification under this subsection, the prosecuting at-**  
25 **torney shall review the conviction and file with the court in which the conviction occurred:**

26 (A) **A motion for entry of an order setting aside the conviction; or**

27 (B) **A motion indicating that the prosecuting attorney is challenging the setting aside of**  
28 **the conviction, if the prosecuting attorney reasonably believes that the conviction is not el-**

**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 **igible to be set aside under this section.**

2 **(4)(a) Upon receiving a motion to set aside a misdemeanor conviction under this section,**  
3 **the court shall grant the motion and issue an order sealing the record of conviction and**  
4 **other official records in the case.**

5 **(b) The clerk of the court shall forward a certified copy of the order to such agencies as**  
6 **directed by the court. A certified copy must be sent to the Department of Corrections if the**  
7 **person is or has been in the custody of the Department of Corrections. Upon entry of the**  
8 **order, the conviction shall be deemed not to have occurred, and the defendant may answer**  
9 **accordingly any questions relating to its occurrence.**

10 **(c) If the defendant is subject to any provisions of the sentence imposed for a conviction**  
11 **set aside under this section, the court shall vacate the sentence. The defendant is not re-**  
12 **quired to serve any remaining term of incarceration and is not subject to any remaining**  
13 **term of supervision.**

14 **(d) A defendant is not required to make further payments toward an outstanding mone-**  
15 **tary obligation included in a criminal judgment if all convictions within the judgment have**  
16 **been set aside under this section.**

17 **(5) Upon the filing of a motion challenging the setting aside of a misdemeanor conviction**  
18 **under this section, the court shall make a reasonable effort to notify the defendant.**

19 **(6) As used in this section:**

20 **(a) “Criminal offender information” has the meaning given that term in ORS 181A.010.**

21 **(b) “Marijuana items” has the meaning given that term in ORS 475B.015.**

22 **(c) “Prosecuting attorney” means a district attorney or a city attorney with a criminal**  
23 **prosecutorial function.**

24 **SECTION 2. Section 1 of this 2019 Act is repealed on January 1, 2024.**

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