

SENATE AMENDMENTS TO SENATE BILL 420

By COMMITTEE ON JUDICIARY

April 23

1 On page 1 of the printed bill, delete lines 4 through 28 and delete page 2 and insert:

2 **“SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 475B.010 to**
3 **475B.545.**

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

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

9 **“(b) A person filing a motion under this section is not required to pay the filing fee es-**
10 **tablished under ORS 21.135 or any other fee, or file a set of fingerprints.**

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

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

16 **“(b) The prosecuting attorney, within 30 days after the filing of the motion under para-**
17 **graph (a) of this subsection, may file an objection to granting the motion only on the basis**
18 **that the person’s conviction is not a qualifying marijuana conviction.**

19 **“(c) If no objection from the prosecuting attorney is received by the court within 30 days**
20 **after the filing of the motion, the court shall grant the motion and enter an order as de-**
21 **scribed in subsection (5) of this section.**

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

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

33 **“(6) The clerk of the court shall forward a certified copy of the order to such agencies**
34 **as directed by the court. A certified copy must be sent to the Department of Corrections**
35 **when the person has been in the custody of the Department of Corrections. Upon entry of**

1 **the order, the conviction, arrest, citation, charge or other proceeding shall be deemed not**
2 **to have occurred, and the person may answer accordingly any questions relating to its oc-**
3 **currence.**

4 **“(7) As used in this section:**

5 **“(a) ‘Prosecuting attorney’ means a district attorney or a city attorney with a**
6 **prosecutorial function.**

7 **“(b) ‘Qualifying marijuana conviction’ means a conviction for a marijuana offense:**

8 **“(A) Based on conduct described in ORS 475B.301;**

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

10 **“(C) For which the person has completed and fully complied with or performed the sen-**
11 **tence of the court.”.**

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