

# D R A F T

## SUMMARY

Digest: The Act changes the process for setting aside offense convictions and dismissals and contempt findings. The Act makes some of the same changes for setting aside GEI judgments. (Flesch Readability Score: 62.7).

Modifies the process for setting aside convictions, dismissals, contempt of court findings and guilty except for insanity judgments. Increases the waiting period for setting aside certain types of contempt of court findings. Modifies when the court is required to hold a hearing on and grant motions to set aside. Requires that the court enter an order within 120 days of granting a motion to set aside. Specifies a process for when a person has outstanding financial obligations and authorizes the court to waive such obligations under specified circumstances. Provides that the required time period prior to filing the motion, during which the person is required to have no convictions, applies to motions to set aside convictions and certain arrests, charges and citations only. Provides that the dismissal of a traffic violation citation may not be set aside.

Directs the Judicial Department to annually submit a report to the interim committees of the Legislative Assembly related to the judiciary concerning motions to set aside.

## A BILL FOR AN ACT

1  
2 Relating to expungements; creating new provisions; and amending ORS  
3 137.223 and 137.225.

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

5 **SECTION 1.** ORS 137.225, as amended by section 55, chapter 70, Oregon  
6 Laws 2024, is amended to read:

7 137.225. (1)(a) At any time after the person becomes eligible as described  
8 in paragraph (b) of this subsection, any person convicted of an offense, **or**  
9 **found in contempt of court**, who has fully complied with and performed  
10 the sentence of the court for the offense **or contempt finding**, and whose

1 conviction **or finding** is described in subsection (5) of this section, by motion  
2 may apply to the court where the conviction **or finding** was entered for  
3 entry of an order setting aside the conviction **or finding**. A person who is  
4 still under supervision **or who has outstanding compensatory fines or**  
5 **restitution** as part of the sentence for the offense that is the subject of the  
6 motion has not fully complied with or performed the sentence of the court.  
7 **The fact that a person has outstanding financial obligations, other**  
8 **than compensatory fines and restitution, that are part of the sentence**  
9 **for the offense or finding that is the subject of the motion may not**  
10 **be considered when determining whether the person has fully complied**  
11 **with or performed the sentence of the court.**

12 (b) A person is eligible to file a motion under paragraph (a) of this sub-  
13 section:

14 (A) For a Class B felony, seven years from the date of conviction or the  
15 release of the person from imprisonment for the conviction sought to be set  
16 aside, whichever is later.

17 (B) For a Class C felony **or a finding of a person in contempt of court**  
18 **for violating an order related to abuse or a person crime**, five years from  
19 the date of conviction **or finding** or the release of the person from  
20 imprisonment for the conviction **or finding** sought to be set aside, whichever  
21 is later.

22 (C) For a Class A misdemeanor, three years from the date of conviction  
23 or the release of the person from imprisonment for the conviction sought to  
24 be set aside, whichever is later.

25 (D) For a Class B or Class C misdemeanor, a violation or *[the]* a finding  
26 of a person in contempt of court **not described in subparagraph (B) of this**  
27 **paragraph**, one year from the date of conviction or finding or the release  
28 of the person from imprisonment for the conviction or finding sought to be  
29 set aside, whichever is later.

30 (c) If no accusatory instrument is filed, at any time after 60 days from the  
31 date the prosecuting attorney indicates that the state has elected not to

1 proceed with a prosecution or contempt proceeding, an arrested, cited or  
2 charged person may apply to the court in the county in which the person  
3 was arrested, cited or charged, for entry of an order setting aside the record  
4 of the arrest, citation or charge.

5 (d) At any time after an acquittal or a dismissal other than a dismissal  
6 described in paragraph (c) of this subsection, an arrested, cited or charged  
7 person may apply to the court in the county in which the person was ar-  
8 rested, cited or charged, for entry of an order setting aside the record of the  
9 arrest, citation or charge.

10 (e) Notwithstanding paragraph (b) of this subsection, a person whose  
11 sentence of probation was revoked may not apply to the court for entry of  
12 an order setting aside the conviction **or finding** for which the person was  
13 sentenced to probation for a period of three years from the date of revocation  
14 or until the person becomes eligible as described in paragraph (b) of this  
15 subsection, whichever occurs later.

16 **(f) If the offense classification of a conviction has been reduced by**  
17 **the court, the applicable time period under paragraph (b) of this sub-**  
18 **section is the time period associated with the reduced offense classi-**  
19 **fication, calculated from the date of conviction or the release of the**  
20 **person from imprisonment for the conviction sought to be set aside,**  
21 **whichever is later.**

22 [(f)] **(g)** A person filing a motion under this section is not required to pay  
23 the filing fee established under ORS 21.135.

24 (2)(a) A copy of the motion shall be served upon the office of the prose-  
25 cuting attorney who prosecuted the offense **or charge of contempt**, or who  
26 had authority to prosecute the charge if there was no accusatory instrument  
27 filed. The prosecuting attorney may *[object]* **file an objection** to a motion  
28 filed under subsection (1)(a) of this section *[and shall notify the court and the*  
29 *person of the objection]* within 120 days of the date the motion was filed with  
30 the court. **The prosecuting attorney shall notify the court and the per-**  
31 **son of the objection upon filing, and shall indicate in the objection**

1 **whether the objection is based on the circumstances and behavior of**  
2 **the person. If the objection is not based on the circumstances and**  
3 **behavior of the person, the prosecuting attorney shall further notify**  
4 **the person that the person has 33 calendar days from the date of the**  
5 **filing of the objection to request a hearing.**

6 (b) When a prosecuting attorney is served with a copy of a motion to set  
7 aside a conviction **or finding** under subsection (1)(a) of this section, the  
8 prosecuting attorney shall provide a copy of the motion and notice of the  
9 hearing date to the victim, if any, [*of the offense*] by mailing a copy of the  
10 motion and notice to the victim's last-known address. **If the prosecuting**  
11 **attorney filed an objection under paragraph (a) of this subsection that**  
12 **is not based on the circumstances and behavior of the person, the**  
13 **prosecuting attorney shall notify the victim that the victim has 33**  
14 **calendar days from the date of the filing of the objection to request a**  
15 **hearing.**

16 (c) When a person makes a motion under this section, the person shall  
17 forward to the Department of State Police a full set of the person's finger-  
18 prints on a fingerprint card or in any other manner specified by the depart-  
19 ment.

20 (d) When a person makes a motion under subsection (1)(a) of this section,  
21 the person must pay a fee to the Department of State Police for the purpose  
22 of the department performing a criminal record check. The department shall  
23 establish a fee in an amount not to exceed the actual cost of performing the  
24 criminal record check. If the department is required to perform only one  
25 criminal record check for the person, the department may only charge one  
26 fee, regardless of the number of counties in which the person is filing a  
27 motion to set aside a conviction, **finding** arrest, charge or citation under  
28 this section. The department shall provide a copy of the results of the crim-  
29 inal record check to the prosecuting attorney.

30 (e) The prosecuting attorney may not charge the person a fee for per-  
31 forming the requirements described in this section.

1 (3)(a) If an objection **based on the circumstances or behavior of the**  
2 **person** is received to a motion filed under subsection (1)(a) of this section,  
3 **or upon the request of the person or the victim**, the court shall hold a  
4 hearing, and may require the filing of such affidavits and may require the  
5 taking of such proofs as the court deems proper. The court shall allow the  
6 victim to make a statement at the hearing. If the person is otherwise eligible  
7 for relief under this section, the court shall [*grant the motion and enter an*  
8 *order as described in paragraph (b)*] **proceed to a financial obligation**  
9 **waiver determination under paragraph (d) of this subsection or, if**  
10 **there are no outstanding financial obligations on the offense or find-**  
11 **ing, proceed to paragraph (e) of this subsection** unless the court makes  
12 written findings, by clear and convincing evidence, that the circumstances  
13 and behavior of the person, from the date of the conviction **or finding** the  
14 person is seeking to set aside to the date of the hearing on the motion, do  
15 not warrant granting the motion due to the circumstances and behavior  
16 creating a risk to public safety. When determining whether the person's cir-  
17 cumstances and behavior create a risk to public safety, the court may only  
18 consider criminal behavior, or violations of regulatory law or administrative  
19 rule enforced by civil penalty or other administrative sanction that relate  
20 to the character of the conviction **or finding** sought to be set aside. The  
21 court may not consider nonpunitive civil liability, monetary obligations and  
22 motor vehicle violations. [*Upon granting the motion, the court shall enter an*  
23 *appropriate order containing the original arrest or citation charge, the con-*  
24 *viction charge, if different from the original, the date of charge, the submitting*  
25 *agency and the disposition of the charge. Upon the entry of the order, the*  
26 *person for purposes of the law shall be deemed not to have been previously*  
27 *convicted, and the court shall issue an order sealing the record of conviction*  
28 *and other official records in the case, including the records of arrest, citation*  
29 *or charge.*]

30 **(b) If the court receives an objection to a motion filed under sub-**  
31 **section (1)(a) of this section that is not based on the circumstances**

1 and behavior of the person and no request for a hearing is received,  
2 the court shall deny the motion.

3 (c) If no objection to a motion filed under subsection (1)(a) of this  
4 section is received, the court shall proceed to a financial obligation  
5 waiver determination under paragraph (d) of this subsection or, if  
6 there are no outstanding financial obligations on the offense or find-  
7 ing, proceed to paragraph (e) of this subsection.

8 (d) When conducting a financial obligation waiver determination  
9 under this subsection, the court shall proceed as follows:

10 (A) The court may waive any remaining financial obligations owed  
11 by the person on the offense or finding, other than compensatory fines  
12 or restitution.

13 (B) The court shall waive any remaining financial obligations owed  
14 by the person on the offense or finding, other than compensatory fines  
15 or restitution, if the date of the conviction or finding occurred more  
16 than 10 years prior to the filing of the motion and the court is setting  
17 aside all convictions, findings, arrests, citations or charges within the  
18 case.

19 (C) If the person has outstanding compensatory fines or restitution  
20 on the offense, or the court decides not to waive any other remaining  
21 financial obligations owed by the person on the offense, the court shall  
22 deny the motion.

23 (e) If the court waives financial obligations under paragraph (d)(A)  
24 or (B) of this subsection, or if there are no outstanding financial ob-  
25 ligations on the offense or finding, the court shall grant the motion  
26 and shall, within 120 days after the date of the hearing, or if no ob-  
27 jection was received, within 120 days after the conclusion of the time  
28 period during which the prosecuting attorney may object under sub-  
29 section (2)(a) of this section, enter an appropriate order containing the  
30 original arrest or citation charge, the conviction or contempt charge,  
31 if different from the original, the date of charge, the submitting

1 **agency and the disposition of the charge. Upon the entry of the order,**  
2 **the person for purposes of the law shall be deemed not to have been**  
3 **previously convicted, and the court shall issue an order sealing the**  
4 **record of conviction or contempt finding and other official records in**  
5 **the case, including the records of arrest, citation or charge.**

6 [(b)] (f) The court shall grant a motion filed under subsection (1)(c) or (d)  
7 of this section[, or under subsection (1)(a) of this section if no objection to the  
8 motion is received,] and shall, **within 120 days after the date the motion**  
9 **was filed with the court,** enter an appropriate order containing the original  
10 arrest or citation charge, [*the conviction charge, if applicable and different*  
11 *from the original,*] the date of charge, the submitting agency and the dispo-  
12 sition of the charge. Upon the entry of the order, the person for purposes  
13 of the law shall be deemed not to have been previously [*convicted,*] arrested,  
14 cited or charged, and the court shall issue an order sealing all official re-  
15 cords in the case, including the records of arrest, citation or charge, whether  
16 or not the arrest, citation or charge resulted in a further criminal proceed-  
17 ing.

18 (4) The clerk of the court shall forward a certified copy of the order to  
19 such agencies as directed by the court. A certified copy must be sent to the  
20 Department of Corrections when the order concerns a conviction. Upon entry  
21 of the order, the conviction, arrest, citation, charge or other proceeding shall  
22 be deemed not to have occurred, and the person may answer accordingly any  
23 questions relating to its occurrence.

24 (5) The provisions of subsection (1)(a) of this section apply to [*a conviction*  
25 *for*] **the following convictions and findings:**

26 (a) A Class B felony, except for a violation of ORS 166.429 or any crime  
27 classified as a person felony as defined in the rules of the Oregon Criminal  
28 Justice Commission.

29 (b) Any misdemeanor, Class C felony or felony punishable as a  
30 misdemeanor pursuant to ORS 161.705.

31 (c) An offense constituting a violation under state law or local ordinance.

1 (d) An offense committed before January 1, 1972, that, if committed after  
2 that date, would qualify for an order under this section.

3 (e) The finding of a person in contempt of court.

4 (6) Notwithstanding subsection (5) of this section, the provisions of sub-  
5 section (1)(a) of this section do not apply to a conviction for:

6 (a) Criminal mistreatment in the second degree under ORS 163.200 if the  
7 victim at the time of the crime was 65 years of age or older.

8 (b) Criminal mistreatment in the first degree under ORS 163.205 if the  
9 victim at the time of the crime was 65 years of age or older, or when the  
10 offense constitutes child abuse as defined in ORS 419B.005.

11 (c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when the  
12 offense constitutes child abuse as defined in ORS 419B.005.

13 (d) Criminally negligent homicide under ORS 163.145, when that offense  
14 was punishable as a Class C felony.

15 (e) Assault in the third degree under ORS 163.165 (1)(h).

16 (f) Any sex crime, unless:

17 (A) The sex crime is listed in ORS 163A.140 (1)(a) and:

18 (i) The person has been relieved of the obligation to report as a sex  
19 offender pursuant to a court order entered under ORS 163A.145 or 163A.150;

20 and

21 (ii) The person has not been convicted of, found guilty except for insanity  
22 of or found to be within the jurisdiction of the juvenile court based on a  
23 crime for which the court is prohibited from setting aside the conviction  
24 under this section; or

25 (B) The sex crime constitutes a Class C felony and:

26 (i) The person was under 16 years of age at the time of the offense;

27 (ii) The person is:

28 (I) Less than two years and 180 days older than the victim; or

29 (II) At least two years and 180 days older, but less than three years and  
30 180 days older, than the victim and the court finds that setting aside the  
31 conviction is in the interests of justice and of benefit to the person and the



1 community;

2 (iii) The victim's lack of consent was due solely to incapacity to consent  
3 by reason of being less than a specified age;

4 (iv) The victim was at least 12 years of age at the time of the offense;

5 (v) The person has not been convicted of, found guilty except for insanity  
6 of or found to be within the jurisdiction of the juvenile court based on a  
7 crime for which the court is prohibited from setting aside the conviction  
8 under this section; and

9 (vi) Each conviction or finding described in this subparagraph involved  
10 the same victim.

11 (7)(a) Notwithstanding subsection (5) of this section, the provisions of  
12 subsection (1)(a) of this section do not apply to:

13 [(a)] (A) A conviction for a state or municipal traffic offense.

14 [(b)] (B) A person convicted[, *within the following applicable time period*  
15 *immediately preceding the filing of the motion pursuant to subsection (1) of*  
16 *this section,*] of any other offense, excluding motor vehicle violations and  
17 unlawful possession of a controlled substance constituting a drug enforce-  
18 ment misdemeanor as described in section 35, chapter 70, Oregon Laws 2024,  
19 **or found in contempt of court for violating an order related to abuse**  
20 **or a person crime, within the following applicable time period imme-**  
21 **diately preceding the filing of the motion pursuant to subsection (1)(a)**  
22 **of this section,** whether or not the other conviction is for conduct associ-  
23 ated with the same criminal episode that caused the [*arrest, citation, charge*  
24 *or*] conviction, **or with the same course of conduct that caused the**  
25 **finding,** that is sought to be set aside:

26 [(A)] (i) For a motion concerning a Class B felony, seven years.

27 [(B)] (ii) For a motion concerning a Class C felony **or a finding of a**  
28 **person in contempt of court for violating an order related to abuse or**  
29 **a person crime,** five years.

30 [(C)] (iii) For a motion concerning a Class A misdemeanor, three years.

31 [(D)] (iv) For a motion concerning a Class B or Class C misdemeanor a

1 violation or a finding of contempt of court **not described in sub-**  
2 **subparagraph (ii) of this subparagraph**, one year.

3 **(C) A person who at the time the motion described in this section**  
4 **is pending before the court is under charge of commission of any**  
5 **crime or contempt of court for violating an order related to abuse or**  
6 **a person crime.**

7 [(c)] **(b)** A single violation, other than a motor vehicle violation, within  
8 the time period specified in paragraph [(b)] **(a)(B)** of this subsection is not  
9 a conviction under this subsection. Notwithstanding subsection (1) of this  
10 section, a conviction that has been set aside under this section shall be  
11 considered for the purpose of determining whether paragraph [(b)] **(a)(B)** of  
12 this subsection is applicable.

13 [(d) *A person who at the time the motion authorized by subsection (1) of*  
14 *this section is pending before the court is under charge of commission of any*  
15 *crime.*]

16 (8) The provisions of subsection (1)(c) or (d) of this section do not apply  
17 to:

18 **(a)** An arrest or citation for driving while under the influence of  
19 intoxicants if the charge is dismissed as a result of the person's successful  
20 completion of a diversion agreement described in ORS 813.200.

21 **(b) The dismissal of a citation for a traffic violation.**

22 **(c) A person who at the time the motion described in this section**  
23 **is pending before the court is under charge of commission of any**  
24 **crime or contempt of court for violating an order related to abuse or**  
25 **a person crime.**

26 **(d) For a motion concerning an arrest, citation or charge for a**  
27 **crime constituting domestic violence, a sex crime or any other person**  
28 **felony or person Class A misdemeanor, as those terms are defined in**  
29 **the rules of the Oregon Criminal Justice Commission, a person con-**  
30 **victed of any other offense, excluding motor vehicle violations, or**  
31 **found in contempt of court for violating an order related to abuse or**

1 **a person crime, within the three years immediately preceding the fil-**  
2 **ing of the motion pursuant to subsection (1)(c) or (d) of this section,**  
3 **whether or not the other conviction or finding is for conduct associ-**  
4 **ated with the same criminal episode that caused the arrest, citation**  
5 **or charge that is sought to be set aside.**

6 (9) The provisions of subsection (1) of this section apply to convictions,  
7 **findings**, arrests, citations and charges that occurred before, as well as  
8 those that occurred after, September 9, 1971. There is no time limit for  
9 making an application.

10 (10) For purposes of any civil action in which truth is an element of a  
11 claim for relief or affirmative defense, the provisions of subsection (3) of this  
12 section providing that the conviction, **finding**, arrest, citation, charge or  
13 other proceeding be deemed not to have occurred do not apply and a party  
14 may apply to the court for an order requiring disclosure of the official re-  
15 cords in the case as may be necessary in the interest of justice.

16 (11)(a) Upon motion of any prosecutor or defendant in a case involving  
17 records sealed under this section, supported by affidavit showing good cause,  
18 the court with jurisdiction may order the reopening and disclosure of any  
19 records sealed under this section for the limited purpose of assisting the in-  
20 vestigation of the movant. However, such an order has no other effect on the  
21 orders setting aside the conviction **or finding**, or the arrest, citation or  
22 charge record.

23 (b) Notwithstanding paragraph (a) of this subsection, when an arrest, ci-  
24 tation or charge described in subsection (1)(c) of this section is set aside, a  
25 prosecuting attorney may, for the purpose of initiating a criminal proceeding  
26 within the statute of limitations, unseal the records sealed under this section  
27 by notifying the court with jurisdiction over the charge, record of arrest or  
28 citation. The prosecuting attorney shall notify the person who is the subject  
29 of the records of the unsealing under this paragraph by sending written no-  
30 tification to the person's last known address.

31 (12) The State Court Administrator shall create forms to be used

1 throughout the state for motions and proposed orders described in this sec-  
2 tion.

3 (13) As used in this section:

4 (a) "Affidavit" includes a declaration under penalty of perjury.

5 **(b) "Domestic violence" has the meaning given that term in ORS**  
6 **135.230.**

7 **(c) "Order related to abuse or a person crime" means:**

8 **(A) A court order issued under ORS 107.095 (1)(c) or (d), 107.700 to**  
9 **107.735, 124.005 to 124.040, 133.035, 135.247 or 163.760 to 163.777; or**

10 **(B) A court order arising from a criminal case involving a crime**  
11 **constituting domestic violence, a sex crime or any other person felony**  
12 **or person Class A misdemeanor, as those terms are defined in the**  
13 **rules of the Oregon Criminal Justice Commission.**

14 **[(b)] (d) "Sex crime" has the meaning given that term in ORS 163A.005.**

15 **SECTION 2. ORS 137.223 is amended to read:**

16 137.223. (1) A person who has been found guilty except for insanity of an  
17 offense for which, if convicted, the person could apply for entry of an order  
18 setting aside the conviction pursuant to ORS 137.225, may by motion apply  
19 to the court for entry of an order setting aside the judgment finding the  
20 person guilty except for insanity of the offense.

21 (2)(a) A person described in subsection (1) of this section may file the  
22 motion to set aside a judgment of guilty except for insanity any time after  
23 the following time periods:

24 (A) For a judgment of guilty except for insanity on a Class B felony,  
25 seven years from the date of entry of the judgment or the date the person  
26 is no longer under the jurisdiction of the Psychiatric Security Review Board,  
27 whichever is later.

28 (B) For a judgment of guilty except for insanity on a Class C felony, five  
29 years from the date of entry of the judgment or the date the person is no  
30 longer under the jurisdiction of the board, whichever is later.

31 (C) For a judgment of guilty except for insanity on a Class A

1 misdemeanor, three years from the date of entry of the judgment or the date  
2 the person is no longer under the jurisdiction of the board, whichever is  
3 later.

4 (D) For a judgment of guilty except for insanity on a Class B or Class  
5 C misdemeanor, one year from the date of entry of the judgment or the date  
6 the person is no longer under the jurisdiction of the board, whichever is  
7 later.

8 (b) A person is eligible to have a judgment of guilty except for insanity  
9 set aside under this section if the person has no other findings of guilty ex-  
10 cept for insanity and no convictions for offenses other than motor vehicle  
11 violations within the following time periods prior to filing the motion:

12 (A) For a motion concerning a judgment of guilty except for insanity on  
13 a Class B felony, seven years.

14 (B) For a motion concerning a judgment of guilty except for insanity on  
15 a Class C felony, five years.

16 (C) For a motion concerning a judgment of guilty except for insanity on  
17 a Class A misdemeanor, three years.

18 (D) For a motion concerning a judgment of guilty except for insanity on  
19 a Class B or Class C misdemeanor, one year.

20 (3)(a) A copy of the motion shall be served upon the office of the prose-  
21 cuting attorney who prosecuted the offense. The prosecuting attorney may  
22 [*object*] **file an objection** to the motion [*filed and shall notify the court and*  
23 *the person of the objection*] within 120 days of [*receiving the motion*] **the date**  
24 **the motion was filed with the court. The prosecuting attorney shall**  
25 **notify the court and the person of the objection upon filing, and shall**  
26 **indicate in the objection whether the objection is based on the cir-**  
27 **cumstances and behavior of the person. If the objection is not based**  
28 **on the circumstances and behavior of the person, the prosecuting at-**  
29 **torney shall further notify the person that the person has 33 calendar**  
30 **days from the date of the filing of the objection to request a hearing.**

31 (b) When a prosecuting attorney is served with a copy of a motion to set

1 aside a judgment of guilty except for insanity under this section, the prose-  
2 cuting attorney shall provide a copy of the motion and notice of the hearing  
3 date to the victim, if any, of the offense by mailing a copy of the motion and  
4 notice to the victim's last-known address. **If the prosecuting attorney filed**  
5 **an objection under paragraph (a) of this subsection that is not based**  
6 **on the circumstances and behavior of the person, the prosecuting at-**  
7 **torney shall notify the victim that the victim has 33 calendar days**  
8 **from the date of the filing of the objection to request a hearing.**

9 (c) When a person files a motion under this section, the person must pay  
10 a fee to the Department of State Police for the purpose of the department  
11 performing a criminal record check, and shall forward to the department a  
12 full set of the person's fingerprints on a fingerprint card or in any other  
13 manner specified by the department. The department shall establish a fee in  
14 an amount not to exceed the actual cost of performing the criminal record  
15 check. If the department is required to perform only one criminal record  
16 check for the person, the department may only charge one fee, regardless of  
17 the number of counties in which the person is filing a motion to set aside  
18 a conviction, arrest, charge or citation under this section. The department  
19 shall provide a copy of the results of the criminal record check to the pros-  
20 ecuting attorney.

21 (d) A person filing a motion under this section is not required to pay the  
22 filing fee established under ORS 21.135.

23 (4)(a) If an objection **based on the circumstances or behavior of the**  
24 **person** is received to a motion filed under this section, **or upon the request**  
25 **of the person or the victim**, the court shall hold a hearing, and may re-  
26 quire the filing of such affidavits and may require the taking of such proofs  
27 as the court deems proper. The court shall allow the victim to make a  
28 statement at the hearing. If the person is otherwise eligible for relief under  
29 this section, the court shall grant the motion and, **within 120 days after**  
30 **the date of the hearing**, enter an order as described in paragraph [(b)] (d)  
31 of this subsection unless the court makes written findings, by clear and

1 convincing evidence, that the circumstances and behavior of the person, from  
2 the date of the judgment the person is seeking to set aside to the date of the  
3 hearing on the motion, do not warrant granting the motion due to the cir-  
4 cumstances and behavior creating a risk to public safety. When determining  
5 whether the person's circumstances and behavior create a risk to public  
6 safety, the court may only consider criminal behavior, or violations of regu-  
7 latory law or administrative rule enforced by civil penalty or other admin-  
8 istrative sanction that relate to the character of the conviction sought to  
9 be set aside. The court may not consider nonpunitive civil liability, mone-  
10 tary obligations and motor vehicle violations.

11 **(b) If no objection to the motion filed under this section is received,**  
12 **the court shall grant the motion and, within 120 days after the con-**  
13 **clusion of the time period during which the prosecuting attorney may**  
14 **object under subsection (3)(a) of this section, enter an order as de-**  
15 **scribed in paragraph (d) of this subsection.**

16 **(c) If the court receives an objection that is not based on the cir-**  
17 **cumstances and behavior of the person and no request for a hearing**  
18 **is received, the court shall deny the motion.**

19 [(b)] **(d)** An order entered under this subsection shall state the original  
20 arrest charge and the charge for which the person was found guilty except  
21 for insanity. The order shall further state that positive identification has  
22 been established by the Department of State Police and further identified as  
23 to Department of State Police number or submitting agency number.

24 (5)(a) Upon the entry of an order under subsection (4) of this section:

25 (A) The person, for purposes of the law, shall be deemed not to have been  
26 previously found guilty except for insanity, and the court shall issue an or-  
27 der sealing the records of the case, including the records of arrest, whether  
28 or not the arrest resulted in a further criminal proceeding.

29 (B) The court shall inform the person that the person's right to possess,  
30 purchase or otherwise acquire a firearm remains prohibited under federal  
31 law.

1 (b) For purposes of this subsection, records of the case do not include  
2 medical records that are in the possession of the Psychiatric Security Review  
3 Board, including medical evaluations and reports submitted from other  
4 agencies concerning the status or compliance of the person.

5 (6) The clerk of the court shall forward a certified copy of the order en-  
6 tered under subsection (5) of this section to such agencies as directed by the  
7 court. A certified copy shall be sent to the Psychiatric Security Review  
8 Board. Upon entry of the order, the judgment of guilty except for insanity  
9 shall be deemed not to have been entered, and the person may answer ac-  
10 cordingly any questions relating to its occurrence.

11 (7) For purposes of any civil action in which truth is an element of a  
12 claim for relief or affirmative defense, the provisions of subsection (6) of this  
13 section providing that the judgment of guilty except for insanity be deemed  
14 not to have been entered do not apply and a party may apply to the court  
15 for an order requiring disclosure of the official records in the case as may  
16 be necessary in the interests of justice.

17 (8) Upon motion of any prosecutor or defendant in a case involving re-  
18 cords sealed under this section, supported by affidavit showing good cause,  
19 the court with jurisdiction may order the reopening and disclosure of any  
20 records sealed under this section for the limited purpose of assisting the in-  
21 vestigation of the movant. However, such an order has no other effect on the  
22 orders setting aside the judgment of guilty except for insanity.

23 (9) A prosecuting attorney may not condition an agreement not to object  
24 to the entry of a judgment of guilty except for insanity on an agreement by  
25 a person to waive the ability to set aside the judgment under this section.

26 (10) As used in this section, "affidavit" includes a declaration under pen-  
27 alty of perjury.

28 **SECTION 3. No later than January 1, 2027, and annually thereafter,**  
29 **the Judicial Department shall submit a report to the interim commit-**  
30 **tees of the Legislative Assembly related to the judiciary, in the man-**  
31 **ner described in ORS 192.245, concerning the setting aside of arrests,**



1 citations, charges, convictions and contempt of court findings under  
2 ORS 137.225 and judgments of guilty except for insanity under ORS  
3 137.223. The report may include a description of additional resources  
4 the department requires in order to fulfill the department's duties  
5 under ORS 137.223 and 137.225.

6 SECTION 4. The amendments to ORS 137.223 and 137.225 by sections  
7 1 and 2 of this 2025 Act apply to motions filed on or after the effective  
8 date of this 2025 Act.

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