

SB 1065 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/21, 3/27

WHAT THE MEASURE DOES:

Provides that a person with a qualifying possession of a controlled substance conviction may apply by motion to the court for an entry of an order setting aside the conviction. Provides that a qualifying conviction includes possession of varying weights of various controlled substances or a controlled substance that, on or after February 1, 2021, would constitute a Class E Violation. Requires the person moving to set aside the conviction to wait at least one year after any sentence order by the court was completed. Provides that a person moving to set aside the conviction does not have to pay filing fees or file a set of fingerprints and that no background check is required. Requires the person to serve a copy of the motion on the prosecuting attorney. Provides that the prosecuting attorney has 30 days to file an objection and the objection can only be on the basis that the conviction is not a qualifying conviction. Requires the court to hold a hearing if an objection is received and the moving party has the burden to prove, by a preponderance of the evidence, that the conviction is a qualifying amendment. Requires the court to grant the motion to set aside if no objection or, if an objection is received and the moving party proves by a preponderance of the evidence that the conviction is a qualifying conviction, issue an order sealing the record. Requires the court clerk to send a copy of the order(s) to the Department of Corrections (DOC) when the person has been in the custody of DOC.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2020, Oregon voters passed Ballot Measure 110, which reduced possession of smaller amounts of controlled substances from a misdemeanor to Class E violation, punishable by a \$100 fine. According to a Racial and Ethnic Impact Statement provided by the Oregon Criminal Justice Commission, there were 2,139 misdemeanor convictions and 1,918 felon convictions for possession of controlled substances in Oregon in 2019. Measure 110 also created a rebuttable presumption that a conviction for conduct that has been classified or reclassified as a Class E violation does not make an applicant unfit to receive or hold an occupational license or otherwise relate to the fitness and ability of the applicant or licensee to engage in the license activity. Measure 110 was not retroactive and those convicted of possession of a controlled substance prior to 2020 did not have their convictions reduce.

Senate Bill 1065 permits a person charged with a qualifying possession of controlled substance conviction to move the court for an order setting aside the conviction and sealing the record, eliminates the requirement to pay filing fees and file fingerprints when filing the motion, and only allows the prosecuting attorney to object to the motion if the conviction is not a qualifying conviction.