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COLUMBIA COUNTY SB 819 POLICY
January 1, 2022

Introduction

ORS 137.218, commonly referred to as Senate Bill 819 (“SB819”), went into effect on January 1, 2022, and enables each county District Attorney to petition the court to reconsider a previous conviction or sentence. In other words, the law enables prosecutors to seek redress from a judge for unjust convictions or sentences.

The following represents the current version of the Columbia County District Attorney’s SB819 policy. District Attorney Auxier was a proud supporter of the bill, but he expects to use this particular tool sparingly. While it is of vital importance to correct injustice, finality is another important element of the criminal justice system. Great deference will be paid to the prosecutors and judges who sought and obtained original convictions and sentences. Exceeding consideration will be given to the survivors and victims who believed their cases were closed and have moved on or tried to move on from the criminal case.

Since this is a new concept under Oregon law, the policy below is subject to change at any time. Updates to the policy will be posted online as soon as possible.

Eligibility requirements

Please remember that “eligibility” does not mean that the District Attorney will file an SB819 petition with the court seeking redress on your behalf. If you are eligible, it only means that your SB819 application will be considered. Even if you are eligible, SB819 consideration lies within the sole discretion of the District Attorney.

Requests for SB819 consideration fall into one of three categories, and the application form is different for each category. Please fill out the “actual innocence” form if you believe you were wrongfully convicted because you did not commit the crime for which you were accused. Please fill out the “excessive sentencing” form if you believe you were guilty of the crime that you were convicted of but that you were punished for the crime in a disproportionate manner. Lastly, some convictions may have a disproportionate impact on other aspects of your life. For example, you may have been properly convicted and sentenced, but the conviction has had an extraordinarily unfair impact on your life, impacting your ability to possess firearms, obtain housing, or obtain a job. In this situation, please fill out the “collateral consequences” form. Additional eligibility requirements for the three categories of SB 819 relief are listed below:

Actual Innocence

- Conviction must be from Columbia County
- Conviction must not be expungable under ORS 137.225
- Conviction must be for a felony crime
- Applicant has not committed another criminal offense within the last 36 months and does not have pending charges in any jurisdiction
- Applicant is willing to cooperate fully with law enforcement in an effort to identify and bring to justice the person who actually committed the crime
- Applicant's case is not currently pending appeal or post-conviction relief
- The office can identify one or more avenues of investigation that have the potential to substantiate the applicant's claim of innocence

Excessive sentencing claims

- Conviction must be from Columbia County
- Conviction must not be expungable under ORS 137.225
- Applicant cannot owe outstanding victim restitution
- Conviction must be for a felony crime
- Applicant is willing to admit that they are guilty of the crime that caused them to be sentenced and their application contains a statement of what happened that constitutes a confession to every element of the offense
- Applicant is currently incarcerated
- Applicant's sentence was not part of a global settlement with multiple counties
- Applicant has not committed another criminal offense within the last 36 months and does not have pending charges in any jurisdiction
- Applicant has not applied for SB819 consideration in the last 36 months
- Applicant's case is not currently pending appeal or post-conviction relief
- Convictions are not subject to 137.690 or 137.719
- And any of the following statements are true:
 - The applicant was sentenced as a juvenile, they have a term of incarceration remaining on their sentence, are approaching age 25, and will be transferred to adult prison; or
 - The applicant committed the crime when they were under 18; or
 - The applicant is over the age of 60, has a terminal or debilitating illness (suffering from an incurable condition that is likely to lead to death within two years or suffering from an illness that requires chronic assistance with a necessary daily function, such as eating, breathing, toileting, walking, or bathing), or is currently on hospice care; or
 - The applicant's conviction(s) is/are for non-person crime(s) and the sentence or sentences are longer than 10 years in total;
 - The applicant's conviction(s) is/are for person crime(s) and the sentence or sentences are longer than 16 years in total.

Collateral Consequences

- Conviction must be from Columbia County,
- Conviction must not be expungable under ORS 137.225
- Applicant's conviction did not involve domestic violence unless the domestic violence conviction was/were committed while the applicant was a juvenile.

- Applicant has committed another criminal offense within the last 36 months or has pending charges in any jurisdiction
- Applicant is willing to admit that they are guilty of the crime that caused them to be sentenced and their application contains a statement of what happened that constitutes a confession to every element of the offense
- A request from the same defendant was denied in the last 36 months
- Defendant's case is currently pending appeal or post-conviction relief
- Defendant owes outstanding victim restitution
- The applicant demonstrates substantial rehabilitation and presents as a low risk for further criminality
- The applicant demonstrates that their conviction causes manifest and particularized hardship.

General application requirements

SB819 applications will only be considered if they are filled out properly and completed by the convicted person. Applications filled out by other parties must contain a statement that provides a compelling reason why the actual convicted person cannot complete the application and a signature demonstrating the knowing and voluntary consent of the actual convicted person.

False statements on an SB819 application will result in an automatic denial of all present and future SB819 applications by this office.