

# 2016 brings criminal justice reforms

*What you need to know about laws coming into effect Jan. 1*

**BY EMILY GREEN**  
STAFF WRITER

Several significant changes to Oregon's criminal justice system were signed into law during the 2015 legislative session and become effective Jan. 1.

A ban on police profiling and immunity from certain criminal charges when seeking help for someone experiencing a drug overdose are new protections extended to Oregonians.

Also coming into effect are two criminal-history-forgiveness measures. Employers are now prohibited from asking potential employees about their criminal record in the early stages of the hiring process, and people convicted of Schedule I drug charges no longer have to wait 20 years before asking the court to seal their record.

### The box is banned

Employers in Oregon can no longer ask a job applicant about his or her criminal history on a job application or at any other time prior to the initial interview. If there is no interview, the employer must make a conditional job offer before criminal history is discussed.

This rule does not apply to jobs in which current laws and regulations require a consideration of an applicant's criminal history as a condition of employment, such as jobs in law enforcement and the criminal justice system. Nor does it apply to volunteer positions.

Unlike an earlier version of this legislation, the bill that passed does

allow for an employer to run a criminal background check at any point in the hiring process. The employer just can't ask the applicant to self-report up front.

"Oregon's new ban-the-box law will remove barriers to employment for workers so that they can contribute to Oregon's workforce and society," said Brad Avakian, commissioner of Oregon Bureau of Labor and Industries, in a written statement. "Our agency looks forward to working with employers so that they understand and comply with the new law."

Business owners and managers with questions about the implementation of this law can call BOLI's Technical Assistance for Employers program at 971-673-0824.

If you apply for a job in Oregon and the employer asks about your criminal history on a job application or before offering you an interview – or, if there is no interview, before extending a job offer – contact the Bureau of Labor and Industries Civil Rights Division at 971-673-0764 or [crdemail@boli.state.or.us](mailto:crdemail@boli.state.or.us) to file a complaint.

### Criminal record expungement

Senate Bill 908 was an agreement between defense and prosecuting attorneys – each side of the bench got two "fixes" to Oregon's expungement law, attorney Gail Meyer explained to the House Committee on Judiciary during a May hearing on the bill.

The most substantial change came from the defense bar: Prior to Jan. 1, people convicted of possession or delivery of certain controlled substances had to wait 20 years before they could apply to have the conviction removed from their criminal

record. With the new amendment, they must wait only three years from the date of judgment – if they successfully complete their sentence and haven't been convicted of any subsequent misdemeanors or felonies.

Charges now eligible for expungement after three years include most drug-related class B felonies – such as Schedule I drug possession. Schedule I drugs include heroin, magic mushrooms, peyote, LSD and party drugs such as Ecstasy. Possession of cocaine and methamphetamine charges were already eligible for expungement after three years.

Also from defense attorneys is a provision allowing an offender one subsequent violation before the wait time for expungement is extended from three to 10 years. This includes offenses such as nonpayment of TriMet fare and misdemeanors that have been reduced to violations. It does not include more serious crimes.

From the district attorney's side of the aisle came two changes that add new limitations to expungement eligibility. For one, offenders who have been revoked from probation are no longer eligible for getting their convictions set aside in three years, but must wait 10 years instead.

Prosecutors also mandated that third-degree assault is no longer eligible for expungement in cases where the victim is 10 or younger and the assailant is 18 or older at the time of the offense.

Additionally, Oregon's massive marijuana bill contained an

