

One Hundred Fifth Legislature - First Session - 2017

Introducer's Statement of Intent

LB350

Chairperson: Senator Laura Ebke

Committee: Judiciary

Date of Hearing: January 25, 2017

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Under current law, a person may petition or request that a court set aside a criminal conviction after such person has completed his or her sentence. This remedy is only available for those people who were placed on probation and successfully completed the term of probation or received only a fine and paid the fine.

LB 350 would broaden this access to a set aside request to include people who were not placed on probation or only received a fine, but instead, were sentenced to jail or prison for their offenses. A petition to set aside a conviction would be available only after a person completes her or her sentence.

The bill would not provide the ability to request a set aside order for any person who: 1. has a pending criminal charge in any court, 2. is presently required to register as a Sex Offender, 3. was convicted of any traffic offense under the Rules of the Road and similar misdemeanor or felony traffic offenses, or 4. was denied a petition to set aside a conviction within the previous two years.

The factors that a court is to consider in determining whether to grant a set aside are the same as they are under current law for those people who have the ability to petition for a set aside.

The bill also clarifies that a set aside order does not restore a person's right to possess a firearm under state or federal law, assuming the person lost such a right upon conviction.

Principal Introducer: _____

Senator John McCollister