



From the Desk of  
Senator Floyd  
Prozanski

## Vote YES on HB 3206 to update Oregon's post-conviction DNA testing statute

**Oregon Innocence Project (OIP)** is a project of the Oregon Justice Resource Center whose mission is to (1) exonerate the wrongfully convicted, (2) educate and train law students, and (3) promote legal reforms aimed at preventing wrongful convictions. OIP is the only program within Oregon whose sole mission is to actively track inmates' claims of actual innocence, investigate those claims, test DNA and other scientific evidence, and litigate when appropriate. **The Innocence Project** is a national organization dedicated to exonerating the wrongfully convicted with DNA evidence.

**The Oregon Innocence Project and Innocence Project strongly encourage you to support the passage of House Bill 3206 (HB 3206), which will update Oregon's post-conviction DNA testing statute to better enable justice for the wrongfully convicted, victims and communities.** In recent decades, DNA testing has transformed the fabric of our criminal justice system, proving the innocence of 329 wrongfully convicted Americans. Oregon was one of the earlier states to enact a post-conviction DNA testing statute in 2001. Now that all 50 states have enacted such laws, we have the benefit of knowing which areas can be improved.

**First, HB 3206 would allow both incarcerated and non-incarcerated individuals to be eligible for testing** if they have been convicted of aggravated murder or a felony in which DNA evidence could exist and is relevant to establishing an element of the offense. Under the current law, individuals who are no longer incarcerated are eligible for testing for a narrower set of crime categories than those who are currently in prison. For example, defendants who are currently incarcerated may apply for testing if they have been convicted of kidnapping or robbery, but would be ineligible for DNA testing relating to these crimes once they are released.

**Wrongfully convicted people may still face collateral consequences after prison, including sex offender registration, barriers to housing and employment, and social stigma.** Providing them with the same access to DNA testing as incarcerated individuals is a matter of fairness and public safety. **Testing DNA even after a prisoner has been released also increases the likelihood that the real perpetrator will be caught.** Nationally, 22 DNA exoneration cases involved individuals who were no longer in prison—and real perpetrators were identified in eight of these cases. Had these innocent people been ineligible for DNA testing, the real criminal may not have been brought to justice.

**Second, HB 3206 would create a more reasonable standard of review for a court to grant testing.** The current law creates a Catch-22 by essentially requiring a person to prove their innocence before testing is permitted. HB 3206 directs the court to allow testing if it would "lead to a finding of actual innocence." This means that results alone do not necessarily have to "establish" a defendant's innocence, but could provide a piece of the puzzle in proving innocence.

**Finally, HB 3206 would require courts to provide a reason for permitting or denying a motion for DNA testing.** To our knowledge, only one request for DNA testing has been granted since the original statute was enacted 14 years ago. The majority of requests have been denied, but we do not know why because courts do not have to provide an explanation. This amendment would improve the process by helping attorneys and defendants understand how the statute is being applied, and possibly reduce the number of appeals filed for denials of testing.

Oregon has been a leader in adopting reforms to prevent and reveal wrongful convictions. We hope you will continue this tradition by voting for HB 3206. Thank you for your consideration.

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