

Oregon now alone in allowing non-unanimous jury convictions

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The Multnomah County courthouse in downtown Portland.
(Oregonian/OregonLive file photo)

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By [Shane Dixon Kavanaugh | The Oregonian/OregonLive](#)

Oregon is now the only state to [allow non-unanimous jury verdicts](#) after voters in Louisiana approved a constitutional amendment to end their system of split-verdict convictions.

For decades, juries in both states had been allowed to convict most felony defendants with a 10-2 vote, though Oregon still requires a unanimous vote to find defendants guilty of murder.



Louisiana reversed course Tuesday night with 65 percent of voters rejecting the Jim Crow-era practice, first enacted there more than century ago, election results show.

The amendment, which takes effect Jan. 1, received support from both liberal and conservative lawmakers, advocacy groups and political organizations.



'Dirty secret' of Oregon jury system could go before U.S. Supreme Court

"It's an awful and racist provision, and I hope Oregon will soon follow suit," said Aliza Kaplan, a professor at Lewis & Clark Law School in Portland, where she directs the Criminal Justice Reform Clinic.

Last year, Kaplan [published an influential article](#) in the Oregon Law Review that argued how non-unanimous juries undermined the state's criminal justice system and remained a relic of Oregon's less-tolerant past.

Critics have long claimed that non-unanimous juries are deeply flawed and punitive toward nonwhite defendants. Critics have petitioned the U.S. Supreme Court to review their constitutionality, [though the high court hasn't taken up the cases](#).



In both Oregon and Louisiana, opponents have said these systems, which no other state has ever used, are remnants from an era when suspicion of nonwhites swirled in the open and discrimination toward racial and religious minorities was endemic to public life.

Louisiana's majority verdict system was adopted during the state's 1898 constitutional convention to diminish the influence of black jurors upon verdicts, scholars claim.

In Oregon nearly four decades later, [it was a sensational murder trial](#) involving a Jewish suspect that prompted voters in 1934 to enshrine a non-unanimous jury system into the state constitution, according to advocates and legal scholars.




Inside the gangland murder that gave Oregon its unusual jury system

A number of prosecutors in Oregon, however, support the system and reject the characterization that it's rooted in racism. They say it helps reduce the number of hung juries, which ultimately benefits crime victims.

Still, Oregon and Louisiana's jury systems drew scrutiny last year when lawyers for a man in Louisiana petitioned the U.S. Supreme Court to review that state's jury law,

claiming that such statutes deprive some defendants of equal protection under the law and should be ruled unconstitutional.



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The high court declined to hear the case.

Oregon legislators have the ability to refer a proposal to voters to change the system back to a 12-0 vote. State lawmakers have not tackled the issue of non-unanimous juries since it first recommended a public vote eight decades ago, Kaplan said.

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