

SB 499 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

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Meeting Dates: 3/3

WHAT THE MEASURE DOES:

Allows a person to bring a claim against the state for wrongful conviction if certain criteria are met. Allows for recovery of damages of \$65,000 per year of imprisonment and not less than \$25,000 for each additional year served on parole or post-prison supervision or each year the claimant was required to register as a sex offender, whichever is greater. Disqualifies claimant for damages for any period of incarceration during which the claimant was serving a concurrent sentence for another crime for which the person was lawfully incarcerated. Provides for a structured annuity payment, unless the court finds that it is in the best interests of the claimant to award a lump sum. Awards to the claimant reasonable attorney fees. Permits the court to award other relief sought in the complaint, such as counseling, housing assistance and personal financial literacy assistance. If the claimant prevails, requires the court to issue a certificate of innocence and order related records expunged. Creates a two-year statute of limitations from the date of the dismissal of the charges or finding of not guilty on retrial or the grant of pardon. Creates a statute of limitations of two-years from the effective date of the measure for those who meet the requirements before the effective date of the measure.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Allows a person to bring a claim against the state for wrongful conviction if certain criteria are met. Provides process for the filing the petition, which includes serving the petition on the Attorney General and requiring a bench trial. Allows for appeal directly to the Oregon Supreme Court.

Directs the court to utilize its discretion regarding the weight and admissibility of evidence, considering certain factors. Requires that if the court finds by a preponderance of the evidence the necessary elements are met, the court may award the petitioner \$65,000 per year of imprisonment, and not less than \$25,000 for each additional year served on parole or post-prison supervision or each year the claimant was required to register as a sex offender, whichever is greater, adjusted for inflation. Disqualifies claimant for damages for any period of incarceration during which the claimant was serving a concurrent sentence for another crime for which the person was lawfully incarcerated. Provides for a structured annuity payment, unless the court finds that it is in the best interests of the claimant to award a lump sum. Awards the claimant reasonable attorney fees. Permits the court to award other relief sought in the petition, such as counseling, housing assistance, legal services to regain custody of children, and personal financial literacy assistance. Specifies an award is not subject to taxation. If the claimant prevails, requires the court to issue a certificate of innocence and order related records expunged.

Allows a person who meets the requirements to apply to the county of conviction for a transition grant of \$5,000 within 30 days of release of custody, which must be repaid to the county if the person fails to file a petition for wrongful conviction or the petition is denied and no right of appeal remains.

Creates a two-year statute of limitations from the date of the dismissal of the charges or finding of not guilty on retrial or the grant of pardon. Creates a statute of limitations of two-years from the effective date of the measure for those who meet the requirements before the effective date of the measure.

BACKGROUND:

This summary has not been adopted or officially endorsed by action of the committee.