

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 499 A

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Tim Walker
Reviewed by: Paul Siebert, John Borden
Date: 04/14/2021

Measure Description:

Creates civil claim for wrongful conviction.

Government Unit(s) Affected:

Department of Administrative Services (DAS), District Attorneys and their Deputies (DAs), Department of Justice (DOJ), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Summary of Expenditure Impact:

See Analysis.

Analysis: The measure with the -6 amendment specifies the criteria for when a person may file a petition for compensation for wrongful conviction. The petition must be filed in the circuit court for the county in which the person resides or in the county of conviction. The court may give due consideration to the difficulties of proof caused by the passage of time when considering the weight and admissibility of evidence. If the court finds, upon a preponderance of evidence, that a petitioner has proven the elements of wrongful conviction, the court may award to the petitioner \$65,000 for each year of imprisonment, not less than \$25,000 for each year served on parole or post-prison supervision or each additional year the petitioner was required to register as a sex offender, whichever is greater. The bill with the -6 amendment specifies how the payment is to be made and the court will award the petitioner reasonable attorney fees and costs incurred with the filing of the petition for wrongful incarceration, and the court may award other relief as sought by the petitioner (counseling, housing assistance, etc.).

The measure with the amendment also directs the State Court Administrator to determine the increase or decrease in the cost of living and states that the amounts presented in this measure with the -6 amendment shall be adjusted accordingly on a yearly basis. If the court grants a petition for compensation, the petitioner may request that the court issue a certificate of innocence, in a form developed by the State Court Administrator. Upon entry of a certificate of innocence, the court shall order the associated convictions and arrest records expunged, purged, and from all applicable state and federal systems. The court shall enter the expungement order regardless of whether the petitioner has prior criminal convictions. A person who meets the requirements to file this claim and who intends to file may apply to the county of conviction for a \$5,000 transition assistance grant within 30 days from release from custody. If the person fails to file, the person must reimburse the county.

The Department of Justice (DOJ) anticipates that there will be an increase in volume for the Trial Division, but the total increase is indeterminate. DOJ may need to return to the Legislative Assembly to seek additional limitation if the expenses associated with this measure are greater than expected.

The District Attorneys and their Deputies anticipate a potential fiscal impact due to the potential increase in the Department of Administrative Services (DAS) risk assessment fees and charges for tort liability.

DAS, Public Defense Services Commission, and Oregon Judicial Department anticipate a minimal fiscal impact.