

House Bill 2947

Sponsored by Representative BYNUM, Senator FREDERICK (at the request of Oregon Innocence Project) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Specifies new grounds that, when established by petitioner, require court to grant post-conviction relief.

A BILL FOR AN ACT

1
2 Relating to post-conviction relief; creating new provisions; and amending ORS 138.530.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 138.530 is amended to read:

5 138.530. (1) Post-conviction relief pursuant to ORS 138.510 to 138.680 shall be granted by the
6 court when one or more of the following grounds is established by the petitioner:

7 (a) A substantial denial in the proceedings resulting in petitioner's conviction, or in the appel-
8 late review thereof, of petitioner's rights under the Constitution of the United States, or under the
9 Constitution of the State of Oregon, or both, and which denial rendered the conviction void.

10 (b) Lack of jurisdiction of the court to impose the judgment rendered upon petitioner's con-
11 viction.

12 (c) Sentence in excess of, or otherwise not in accordance with, the sentence authorized by law
13 for the crime of which petitioner was convicted; or unconstitutionality of such sentence.

14 (d) Unconstitutionality of the statute making criminal the acts for which petitioner was con-
15 victed.

16 (e) **New evidence has been discovered since conviction that establishes, with reasonable
17 probability, that the outcome of the criminal proceeding would have been more favorable to
18 the petitioner had the evidence been available.**

19 (f) **At the time of filing a petition for relief, the acts for which the petitioner was con-
20 victed no longer constitute a crime under Oregon law.**

21 (g) **At the time of filing a petition for relief, the acts for which the petitioner was con-
22 victed constitute a lesser offense under Oregon law than the crime for which the petitioner
23 was convicted.**

24 (h) **Appellate jurisprudence since the petitioner's conviction has established new or
25 modified rights of the petitioner under the United States or Oregon Constitutions.**

26 (i) **The interests of justice require relief.**

27 (2) Whenever a person petitions for relief under ORS 138.510 to 138.680, ORS 138.510 to 138.680
28 shall not be construed to deny relief where such relief would have been available prior to May 26,
29 1959, under the writ of habeas corpus, nor shall it be construed to affect any powers of executive
30 clemency or pardon provided by law.

31 (3) ORS 138.510 to 138.680 shall not be construed to limit the original jurisdiction of the Su-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 preme Court in habeas corpus as provided in the Constitution of this state.

2 **SECTION 2. The amendments to ORS 138.530 by section 1 of this 2021 Act apply to pe-**
3 **titions for post-conviction relief filed on or after the effective date of this 2021 Act.**

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