

Senate Bill 499

Sponsored by Senator THATCHER (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**.

Creates civil claim for wrongful conviction.

A BILL FOR AN ACT

1 Relating to claims for wrongful conviction.

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

3 **SECTION 1. (1) A person may bring a claim against the state for wrongful conviction if:**

4 **(a) The claimant was convicted of a felony and subsequently imprisoned;**

5 **(b) The claimant's conviction was reversed or vacated and either the charges were dis-**
6 **missed or on retrial the claimant was found not guilty;**

7 **(c) The claimant did not commit the crime or crimes for which the claimant was con-**
8 **victed and was not an accessory or accomplice to the acts that were the basis of the con-**
9 **viction; and**

10 **(d) The claimant did not commit or suborn perjury, fabricate evidence or by the**
11 **claimant's own conduct cause or bring about the conviction. A confession or admission later**
12 **found to be false or a guilty plea does not constitute committing or suborning perjury, fab-**
13 **ricating evidence or causing or bringing about the conviction under this paragraph.**

14 **(2)(a) A claimant under this section may recover the following damages:**

15 **(A) Except as provided in paragraph (b) of this subsection, \$65,000 for each year of**
16 **imprisonment; and**

17 **(B) Not less than \$25,000 for each additional year served on parole or post-prison super-**
18 **vision or each additional year the claimant was required to register as a sex offender,**
19 **whichever is greater.**

20 **(b) A claimant is not entitled to damages for any period of incarceration during which**
21 **the claimant was concurrently serving a sentence for a conviction of another crime for**
22 **which the claimant was lawfully incarcerated.**

23 **(3)(a) Except as provided in paragraph (b) of this subsection, the court shall order that**
24 **an award under this section be paid as a combination of an initial payment not to exceed**
25 **\$100,000 or 25 percent of the award, whichever is greater, and the remainder as an annuity**
26 **not to exceed \$80,000 per year. The claimant shall designate a beneficiary or beneficiaries for**
27 **the annuity.**

28 **(b) The court may order that the award be paid in one lump sum if the court finds that**
29 **it is in the best interests of the claimant.**

30 **(4) In addition to the damages awarded under subsection (2) of this section, the court:**

31 **(a) Shall award to the claimant reasonable attorney fees and costs incurred in the action**
32

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 brought pursuant to this section not to exceed a total of \$25,000, unless a greater reasonable
2 total is authorized by the court upon a finding of good cause shown; and

3 (b) May award to the claimant other relief as sought in the complaint including, but not
4 limited to, counseling, housing assistance and personal financial literacy assistance, as ap-
5 propriate.

6 (5)(a) If the claimant prevails in an action under this section, the court shall issue the
7 claimant a certificate of innocence finding that the claimant was innocent of all crimes for
8 which the claimant was wrongfully convicted.

9 (b) Upon entry of a certificate of innocence, the court shall order the associated con-
10 victions and arrest records expunged and purged from all applicable state and federal sys-
11 tems pursuant to this subsection. The court shall enter the expungement order regardless
12 of whether the claimant has prior criminal convictions.

13 (6) The statute of limitations for a claim under this section is two years from:

14 (a) The date of dismissal of the criminal charges against the claimant or finding of not
15 guilty on retrial; or

16 (b) The grant of pardon to the person.

17 SECTION 2. Notwithstanding the statute of limitations set forth in section 1 of this 2021
18 Act, a person convicted, imprisoned and released from custody before the effective date of
19 this 2021 Act may bring a claim under section 1 of this 2021 Act no later than two years after
20 the effective date of this 2021 Act.

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