

Requested by Senator THATCHER

**PROPOSED AMENDMENTS TO  
SENATE BILL 499**

1 On page 1 of the printed bill, delete lines 4 through 32 and delete page  
2 2 and insert:

3 **“SECTION 1. (1) A person may recover compensation for wrongful  
4 conviction if:**

5 **“(a) The person was convicted of a felony and subsequently  
6 imprisoned;**

7 **“(b) The person’s conviction was reversed or vacated and either the  
8 charges were dismissed or on retrial the person was found not guilty;**

9 **“(c) The person did not commit the crime or crimes for which the  
10 person was convicted and was not an accessory or accomplice to the  
11 acts that were the basis of the conviction; and**

12 **“(d) The person did not commit perjury, fabricate evidence or by  
13 the person’s own conduct cause or bring about the conviction. A con-  
14 fession or admission later found to be false or a guilty plea does not  
15 constitute committing perjury, fabricating evidence or causing or  
16 bringing about the conviction under this paragraph.**

17 **“(2) A person may file a petition for compensation for wrongful  
18 conviction under this section in the circuit court for the county in  
19 which the person resides. The petitioner shall serve the petition on the  
20 Attorney General. The matter shall be decided by the court without a  
21 jury.**

1       **“(3) The court, in exercising its discretion regarding the weight and**  
2 **admissibility of evidence submitted under this section may in the in-**  
3 **terest of justice give due consideration to difficulties of proof caused**  
4 **by the passage of time, the death or unavailability of witnesses, the**  
5 **destruction of evidence or other factors not caused by a petitioner or**  
6 **those acting on a petitioner’s behalf.**

7       **“(4)(a) If the court finds that a petitioner under this section has**  
8 **proven the elements of subsection (1) of this section by a preponder-**  
9 **ance of the evidence, the court may award to the petitioner:**

10       **“(A) Except as provided in paragraph (b) of this subsection, \$65,000**  
11 **for each year of imprisonment, as adjusted under subsection (7) of this**  
12 **section; and**

13       **“(B) Not less than \$25,000, as adjusted under subsection (7) of this**  
14 **section, for each additional year served on parole or post-prison**  
15 **supervision or each additional year the petitioner was required to**  
16 **register as a sex offender, whichever is greater.**

17       **“(b) A petitioner is not entitled to damages for any period of in-**  
18 **carceration during which the petitioner was concurrently serving a**  
19 **sentence for a conviction of another crime for which the petitioner**  
20 **was lawfully incarcerated.**

21       **“(5)(a) Except as provided in paragraph (b) of this subsection, the**  
22 **court shall order that an award under subsection (4) of this section**  
23 **be paid as a combination of an initial payment not to exceed \$100,000**  
24 **or 25 percent of the award, whichever is greater, and the remainder**  
25 **as an annuity not to exceed \$80,000 per year. The petitioner shall des-**  
26 **ignate a beneficiary or beneficiaries for the annuity.**

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

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

1       “(a) Shall award to the petitioner reasonable attorney fees and costs  
2 incurred in connection with a petition filed under this section, not to  
3 exceed a total of \$25,000 unless a greater reasonable total is authorized  
4 by the court upon a finding of good cause shown; and

5       “(b) May award to the petitioner other relief as sought in the peti-  
6 tion, including, but not limited to, counseling, housing assistance, el-  
7 igibility for medical assistance as defined in ORS 414.025, educational  
8 assistance, job training, legal services to regain custody of children,  
9 assistance with food and transportation and personal financial literacy  
10 assistance, as appropriate.

11       “(7) Beginning in 2022, and every year thereafter, the State Court  
12 Administrator shall determine the percentage increase or decrease in  
13 the cost of living for the previous calendar year, based on changes in  
14 the Consumer Price Index for All Urban Consumers, West Region (All  
15 Items), as published by the Bureau of Labor Statistics of the United  
16 States Department of Labor. On or before July 1 of the year in which  
17 the State Court Administrator makes the determination required by  
18 this subsection, the State Court Administrator shall adjust the  
19 amounts prescribed under subsection (4) of this section for the fol-  
20 lowing calendar year by multiplying the amounts applicable to the  
21 calendar year in which the adjustment is made by the percentage  
22 amount determined under this subsection. The adjustment may not  
23 exceed three percent for any year. The State Court Administrator shall  
24 round the adjusted limitation amount to the nearest \$100, but the un-  
25 rounded amount shall be used to calculate the adjustments to the  
26 amounts in subsequent calendar years. The adjusted amounts become  
27 effective on July 1 of the year in which the adjustment is made, and  
28 apply to all petitions filed under this section on or after July 1 of that  
29 year and before July 1 of the subsequent year.

30       “(8) Compensation awarded as a result of a petition for compen-

1 sation for wrongful conviction under this section is not subject to  
2 taxation.

3 “(9) A petition for compensation under this section is not a claim  
4 subject to ORS 30.260 to 30.300.

5 “(10)(a) If the court grants a petition under this section, the court  
6 shall issue the petitioner a certificate of innocence finding that the  
7 petitioner was innocent of all crimes for which the petitioner was  
8 wrongfully convicted.

9 “(b) Upon entry of a certificate of innocence, the court shall order  
10 the associated convictions and arrest records expunged and purged  
11 from all applicable state and federal systems pursuant to this sub-  
12 section. The court shall enter the expungement order regardless of  
13 whether the petitioner has prior criminal convictions.

14 “(11) A person who meets the requirements of subsection (1) of this  
15 section and who intends to file a petition for compensation for  
16 wrongful conviction under this section may apply to the county of  
17 conviction for a transition assistance grant of \$5,000 within 30 days of  
18 release from custody. The person or person’s counsel must declare  
19 under penalty of perjury that the person satisfies the requirements of  
20 subsection (1) of this section. The person shall reimburse the county  
21 in the amount of \$5,000 within one year after the person fails to file a  
22 petition under this section within the time period described in sub-  
23 section (12) of this section, or the petition is denied by the circuit  
24 court and no right of appeal remains.

25 “(12) Notwithstanding ORS 12.115, a petition under this section must  
26 be filed no later than two years after:

27 “(a) The date of dismissal of the criminal charges against the  
28 petitioner or finding of not guilty on retrial; or

29 “(b) The grant of pardon to the petitioner.

30 “(13) The decision of the circuit court on a petition filed under this

1 section may be appealed only by filing a notice of appeal directly with  
2 the Supreme Court within the time and in the manner specified in  
3 ORS chapter 19 for civil appeals to the Court of Appeals. Any party  
4 filing a notice of appeal under this subsection must note in the notice  
5 of appeal that the case is subject to this subsection.

6 **SECTION 2.** Notwithstanding the statute of limitations set forth  
7 in section 1 of this 2021 Act, a person convicted, imprisoned and re-  
8 leased from custody before the effective date of this 2021 Act may file  
9 a petition under section 1 of this 2021 Act no later than two years after  
10 the effective date of this 2021 Act.”.

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