



Senate Bill 499-1
Establish an Oregon Exoneree Compensation Law
Steven Wax, Oregon Innocence Project
Senate Committee On Judiciary and Ballot Measure 110 Implementation
March 3, 2021

Dear Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee,

The Oregon Innocence Project (OIP) launched in 2014, with a mission to exonerate the wrongfully convicted, train law students, and promote legal reforms aimed at preventing wrongful convictions. Our goal is to build support for comprehensive criminal justice reform to improve eyewitness identification, interrogation practices, discovery practices, and other policies that do not serve to protect the innocent or punish the guilty.

The Oregon Innocence Project encourages your **support of SB 499-1**, establishing a compensation law for wrongfully incarcerated Oregonians.

The extraordinary number of exonerations throughout the United States have proven that our criminal justice system is systemically flawed, and that reform is needed to help prevent future wrongful convictions. While it is important to prevent future wrongful convictions, it is equally important that we acknowledge the exonerees who have spent years in prison for crimes they did not commit.

Oregon is not exempt from error. According to the National Registry of Exonerations, there have been 21 exonerations in Oregon since 1991. Like every other state, Oregon, is susceptible to the same causes of wrongful convictions, including mistaken eyewitness identification, false confessions, invalidated or improper forensic science, ineffective lawyering, and prosecutorial and police misconduct. OIP has received more than seven hundred and fifty requests for assistance since 2014. Of those, OIP has investigated approximately 550. Currently OIP has 5 active cases and has secured 3 exonerations.

Exonerations are complicated and can take years to resolve. Significant time is spent reviewing an application, investigating the claim of innocence, and then litigating the claim of innocence in courts or through the pardon process. Exonerations are the product of many years of meticulous investigation and zealous advocacy. In most cases, the wrongfully incarcerated individuals are continuing to serve time in prison while the exoneration process proceeds.

As eloquently detailed by the exonerees testifying on SB 499, the excitement of finally being free can come with the overwhelming weight of trying to piece life back together. It is no surprise that wrongfully incarcerated individuals who spent years behind bars struggle when they re-enter the community. Compensation and services will help exonerees rebuild their lives, while



also sending the message that the state is taking responsibility for a mistake that resulted in the exoneree losing years of their freedom.

The proposed process in SB 499-1 involves an exoneree petitioning the court for compensation. This is a common practice that occurs in the majority of states with compensation laws. 21 of the 35 states with compensation laws use the court process. The states that do not use the court process have encountered numerous issues. For example:

- California established a board to consider compensation claims. Even though the board appeared favorable to exonerees, it rejected most claims for compensation. The board was so ineffective that California passed a law to create an alternative court process. Additionally, the board is comprised of political appointees, which results in an unnecessarily political process.
- Maryland's compensation claims go through the Board of Public Works. Five exonerees filed claims. Several waited over 2 years before the Board responded. The Board only responded and paid the claims after the media covered the issue.
- Connecticut's system requires claims to go through a State Claims Commissioner. Claims are indefinitely on hold because the new State Claims Commissioner will not proceed with processing the claims.

While SB 499-1 establishes a straightforward process for Oregon's innocent to obtain compensation, we strongly believe that 1(1)(b) needs to be amended to read, "The person's conviction was reversed or vacated and either the charges were dismissed or on retrial the person was found not guilty, **or the person received a grant of pardon on the grounds of innocence.**" A determination of innocence by the governor should be given equal weight to a determination by the courts.

Oregon is one of only 15 (soon to be 14) states that does not provide compensation to wrongfully convicted individuals. In recent weeks, the Idaho Legislature unanimously approved their own compensation legislation and the Governor will sign that bill into law soon. It is time for Oregon to join the majority and compensate wrongfully convicted Oregonians for the years of freedom that were stripped away from them by the state.

OIP urges the Committee to vote in favor of this legislation.

Sincerely,

Steven Wax
Legal Director