

SB 1584 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/8, 2/9

WHAT THE MEASURE DOES:

Allows a person to bring a claim for wrongful conviction. Requires that the person did not commit the crime for which they were convicted, in addition to meeting other criteria. States that reversal or vacation of a conviction because of a nonunanimous jury verdict is not, by itself, sufficient. Specifies the process and burden of proof (preponderance of the evidence) for this civil claim for relief, including notice requirements. Allows for recovery of damages of \$65,000 per year of imprisonment and not less than \$25,000 for each additional year served on parole or post-prison supervision or each year the claimant was required to register as a sex offender, whichever is greater (amounts to be adjusted for inflation annually). Disallows punitive damages. Disqualifies claimant for damages for any period of incarceration during which the claimant was serving a concurrent sentence for another crime for which the person was lawfully incarcerated.

Provides for a structured annuity payment, unless the court finds that it is in the best interests of the claimant to award a lump sum. Awards to the claimant reasonable attorney fees and reimbursement for restitution, fees, court costs, etc. arising out of the wrongful conviction. Permits the court to award other relief such as access to existing state, local, or other programs (counseling, housing assistance, job training, etc.). If the claimant prevails, requires the court to issue a judgment and order related records set aside and sealed. Clarifies that any party to the proceeding may appeal a judgment.

Exempts the claim from the Tort Claims Act. Creates a two-year statute of limitations from the date of the dismissal of the charges, a finding of not guilty on retrial, or the grant of pardon. Provides for a 180-day notice requirement to preserve a claim. Specifies two-year statute of limitations and 180-day notice requirement begin to run on effective date of the law for persons released from custody before the effective date. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:

- Source of the compensation fund
- Convictions overturned by DNA evidence
- Harmful effects on the wrongfully convicted and their families from serving time for a crime not committed
- Access to state and local services by successful claimants

EFFECT OF AMENDMENT:

-1 Clarifies that the claim for wrongful conviction is against the state. Directs the Attorney General to represent the state in all related proceedings. Adds reimbursement for amounts paid by petitioner due to incarceration as damages if petitioner proves the elements of the claim.

BACKGROUND:

Thirty-seven states, the federal government, and Washington D.C. allow for compensation for those who have been wrongfully convicted. According to the National Registry of Exonerations, since 1989 there have been 23 exonerees in Oregon. Senate Bill 1584 allows a person to recover compensation if convicted of a felony and imprisoned, and later the conviction is reversed or vacated, or on retrial the person was found not guilty, or the

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person receives a grant of pardon on the grounds of innocence if the person did not commit the crime, was not an accessory or accomplice to the crime, and did not commit perjury (a false guilty plea or admission does not constitute perjury).

PRELIMINARY