

**SB 1511 -5, -6, -7 STAFF MEASURE SUMMARY**

**Senate Committee On Judiciary and Ballot Measure 110  
Implementation**

---

**Prepared By:** Gillian Fischer, LPRO Analyst

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 2/2, 2/3, 2/14

---

**WHAT THE MEASURE DOES:**

Creates a process by which a person convicted or found guilty except for insanity by nonunanimous jury verdict may file a petition for postconviction relief within one year of effective date of Act. Specifies evidentiary requirements to prove verdict was nonunanimous. Sunsets on January 1, 2025.

Authorizes district attorney to charge reasonable reimbursement fee for cost of providing copies of discovery materials in criminal case. Takes effect on 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-5 Limits eligibility for post conviction relief under process created by the measure to persons currently in custody of the Department of Corrections and serving a sentence for a conviction based on a nonunanimous jury verdict. Creates process for persons with pending petition for postconviction relief to amend petition to include claim for consideration under new provision if amended within 120 days of effective date of the measure. Amends evidence that a court may consider in determining whether a conviction was based on a nonunanimous verdict. Amends standard of proof for establishing a verdict was nonunanimous from a preponderance of evidence to clear and convincing. Directs the circuit court, in a retrial for a conviction vacated under this provision, to instruct the jury as specified in the measure if evidence admitted in the original trial of the vacated conviction is no longer available.

Appropriates, from the General Fund, the amount of \$6,000,000, to be allocated to the Department of Justice for expenses of the department, district attorney offices and community-based organizations providing services to crime victims, resulting from carrying out the provisions of section 1 of the measure.

Removes authority granted to the district attorney to charge a reasonable reimbursement fee for costs of providing discovery materials effective January 1, 2024.

-6 Repeals provisions requiring a sentencing court to order a presentence report for certain felony offenses.

-7 States that a person may not file a petition for post-conviction relief under the provisions created by the measure if the petition is based on a criminal offense committed against a person under 18 years of age.

**BACKGROUND:**

Article I, Section 11, was adopted into the Oregon Constitution in 1934 and states that, in the circuit court, ten members of the jury may render a verdict of guilty or not guilty for serious offenses, except for the crime of first degree murder, which shall be found only by a unanimous verdict. As a result, from 1934 until April 2020, juries in Oregon were instructed that to reach a verdict of guilty in criminal cases, at least 10 out of 12 jurors must agree upon the verdict. The U.S. Supreme Court recently held that the Sixth Amendment's unanimous verdict requirement to convict a defendant of a serious offense applies to state and federal criminal trials equally by way of the Fourteenth Amendment, rendering nonunanimous jury verdicts unconstitutional. *Ramos v. Louisiana*, 140

**SB 1511 -5, -6, -7 STAFF MEASURE SUMMARY**

S. Ct. 1390, 1391 (2020).

In a subsequent case, the U.S. Supreme Court held that the recently adopted *Ramos v. Louisiana* jury-unanimity rule did not apply retroactively on federal collateral review. *Edwards v. Vannoy*, 141 S. Ct. 1547, 1549 (2021). The Court noted in a footnote that states may choose to apply their own retroactivity rule for state post-conviction cases.

Senate Bill 1511 creates a process by which a person convicted or found guilty except for insanity by nonunanimous jury verdict may file a petition for postconviction relief and provides explicit authority to a district attorney to charge reasonable reimbursement fee for costs related to providing discovery materials.