

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office

Measure: SB 1584 - A

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Emily Coates
Reviewed by: John Borden, Tim Walker, Kim To, John Terpening
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Measure Description:

Creates procedure for filing petition for compensation for wrongful conviction.

Government Unit(s) Affected:

Public Defense Services Commission (PDSC), Criminal Justice Commission (CJC), Department of Administrative Services (DAS), Department of Corrections (DOC), Department of Justice (DOJ), District Attorneys and their Deputies (DAs), Oregon Youth Authority (OYA), Board of Parole and Post-Prison Supervision (BPPPS)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

This measure creates a procedure for a person meeting all criteria to file a claim against the State of Oregon to receive compensation at a statutorily set rate for every year spent in prison for wrongful conviction. In order to prevail under this new procedure, the person must prove by a preponderance of the evidence, that they did not commit the crime.

The court shall award damages in the amount of \$65,000 for each year of imprisonment and \$25,000 for the greater of; each year served on parole or post-prison supervision or each additional year the petitioner was required to be registered as a sex offender. This measure directs State Court Administrator to evaluate the percentage of increase or decrease in cost of living for the previous calendar year and shall adjust as needed. Compensation awards are excluded from gross income and are not subject to taxation nor may be offset by expenses incurred by the public body in relation to the petitioner's incarceration.

The petitioner shall not receive damages for any period of incarceration in which the petitioner was found guilty of another crime while serving their sentence. Punitive damages may not be awarded, and notices of petition are required to be delivered to the Department of Administrative Services (DAS). However, awards for attorney fees, court costs, restitution paid, and other costs associated with the wrongful conviction are allowed. This measure declares an emergency and is effective on passage.

The Department of Justice (DOJ) estimates the fiscal impact of this measure to be \$827,206 Other Funds five positions (2.17 FTE) for the 2021-23 biennium and \$1.7 million Other Funds, five positions (4.50 FTE) for the 2023-25 biennium, depending upon the actual number of claims filed. DOJ anticipates the Appellate Division may need to hire a half-time Senior Assistant Attorney General starting January 1, 2023 to represent the state throughout the entire process of an individual filing a claim. The Trial Division would defend all claims in the circuit court, which adds a new classification of cases the Department has not previously handled. DOJ anticipates many claims will be filed and while some cases may not take as long, others could take hundreds of hours. As a result of the increase workload within the Trial Division, DOJ determines that the agency will need to hire one Senior Assistant Attorney General, one Legal Secretary, and one Paralegal starting May 1, 2022 and one Senior Assistant Attorney General starting December 1, 2022 to support the Trial Division workload. The Legislative Fiscal Office (LFO) notes that DOJ would bill legal costs to the Department of Administrative Services (DAS), which may not have dedicated funding for such billings.

In addition to Department of Justice costs, the State will incur exoneree compensation costs. This cost is indeterminate depending on the number of eligible exonerees receiving compensation and each exoneree's length of imprisonment. However, as a point of reference, the Oregon Innocence Coalition predicts that there are currently 13 exonerees who may be eligible to receive approximately \$5 million of compensation from the State of Oregon. Note that this measure does not specify a mechanism for issuing payments to exonerees or where funding for the exonerees compensation will originate; therefore, the LFO assumes that the compensation awards will be funded through the state General Fund.

The fiscal impact for DAS is indeterminate at this time. DAS cannot estimate the exact number of petitions the agency will receive, nor is the measure clear on what action the agency is required to take once petitions are received. The timeframe over which claims will be potentially filed, paid, and costs incurred by the State is unknown. Costs associated with awards for attorney fees and other costs related to the wrongful conviction are also indeterminate.

The Oregon Judicial Department estimates the fiscal impact of this measure to be minimal. There is no fiscal impact for the Oregon Health Authority, Department of Corrections, Public Defense Services Commission, Board of Parole and Post-Prison Supervision, Oregon Criminal Justice Commission or District Attorneys.