

## SB 1511 A STAFF MEASURE SUMMARY

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

---

**Action Date:** 02/14/22

**Action:** Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

**Vote:** 4-3-0-0

**Yeas:** 4 - Dembrow, Gelser Blouin, Manning Jr, Prozanski

**Nays:** 3 - Heard, Linthicum, Thatcher

**Fiscal:** Fiscal impact issued

**Revenue:** Revenue impact issued

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

**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 post-conviction relief within one year of effective date of measure. Limits eligibility for relief to persons currently in the custody of the Department of Corrections and serving a sentence for a conviction based on a nonunanimous jury verdict. Specifies evidentiary requirements to prove verdict was nonunanimous. States a person may not file a petition for post-conviction relief if the petition would be based on a criminal offense committed against a person under 18 years of age. Creates process allowing persons with a pending petition for post-conviction relief to amend petition to include a claim under new provision within 120 days of effective date of the measure. In a retrial for a conviction vacated under this provision, provides jury instructions regarding evidence that was admitted in the original trial but is no longer available. Repeals certain provisions relating to post-conviction relief on January 1, 2026. Authorizes district attorney to charge reasonable reimbursement fee for cost of providing copies of discovery materials in criminal case. Repeals authority January 1, 2024. Repeals provisions requiring a sentencing court to order a presentence report for certain felony offenses. Appropriates \$6 million from the General Fund 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 the measure. Takes effect on 91<sup>st</sup> day following adjournment sine die.

#### ISSUES DISCUSSED:

- Added eligibility limited to adults in custody
- Difference between a preponderance of the evidence and clear and convincing evidence
- Work group efforts
- Distribution of allocated funds to district attorneys and victim service providers based on number of returned cases county receives
- Limitation of applicability to convictions where victim is 18 years of age or older

#### EFFECT OF AMENDMENT:

Limits eligibility for post-conviction relief under process created by the measure to persons currently in the custody of the Department of Corrections and serving a sentence for a conviction based on a nonunanimous jury verdict. 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. Creates process for persons with pending petition for post-conviction 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.

## **SB 1511 A STAFF MEASURE SUMMARY**

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. Amends sunset date to January 1, 2026.

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

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.

### **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 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 that states may choose whether to allow retroactivity for state post-conviction cases.

Senate Bill 1511 A creates a process by which a person convicted or found guilty except for insanity by nonunanimous jury verdict may file a petition for post-conviction relief and appropriates funds for expenses related to carrying out provisions of the measure. It provides explicit authority to a district attorney to charge reasonable reimbursement fees for costs related to providing discovery materials and repeals provisions requiring a sentencing court to order a presentence report for certain felony offenses.