



TO: Senate Committee on Judiciary
FROM: Mae Lee Browning, Oregon Criminal Defense Lawyers Association
DATE: February 4, 2022
RE: Support for SB 1511

Chair Prozanski, Vice Chair Thatcher, and Members of the Committee:

My name is Mae Lee Browning and I am testifying on behalf of OCDLA. The Oregon Criminal Defense Lawyers Association is a nonprofit professional association for experts, private investigators, and attorneys who represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and appellate level, as well as civil commitment proceedings throughout the state of Oregon.

Ramos

Nonunanimous jury verdicts are unconstitutional.¹ There are people in prison who have been convicted by unconstitutional nonunanimous jury verdicts. The Legislature can right this wrong by passing SB 1511. It is the right, fair, and just thing to do.

The United States Supreme Court granted relief to some people convicted by nonunanimous juries, but not others. The *Ramos* ruling in 2020 applied to people who were convicted by a non-unanimous jury whose case was on direct appeal. In 2021 in *Edwards v. Vannoy*², the United States Supreme Court left it up to the state to determine whether to apply the *Ramos* ruling to people convicted by a nonunanimous jury whose judgments of conviction were final.

OCDLA is grateful for the tireless work and dedication of Professor Aliza Kaplan, everyone at the Criminal Justice Reform Clinic at Lewis and Clark law school, and to all the Oregon attorneys who volunteered to take on these cases after the *Ramos* ruling was issued.

Help restore faith in the criminal justice system by allowing those convicted by an unconstitutional jury verdict to receive a fair trial. The process outlined in Sections 1 and 2 of SB 1511 is the result of a collaboration of practitioners from both sides of the Post-Convictions Relief bar with input from the Oregon Department of Justice.

Discovery Fees

OCDLA was part of a workgroup convened by Senator Prozanski in 2020. We support the removal of the discovery fee provision from the bill because it aligns with the workgroup's agreement and intent to discuss discovery costs and a statewide e-discovery system this coming interim.

¹ *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020).

² *Edwards v. Vannoy*, 141 S. Ct. 1547 (2021).

Pre-sentence Investigations

A Court of Appeals recent decision required a pre-sentence investigation be completed for certain crimes. This process often results in a defendant being detained for a longer period of time while we wait for the report that is unlikely to help our clients. Additionally, some counties do not use pre-sentence investigations. A judge still has the discretion to request a pre-sentence investigation whenever they want. There is consensus from OCDLA for this provision.
