

**TESTIMONY ON SENATE BILL 1584
BEFORE THE SENATE COMMITTEE ON JUDICIARY
AND BALLOT MEASURE 110 IMPLEMENTATION
FEBRUARY 8, 2022**

**PRESENTED BY: ERIN M. PETTIGREW, COUNSEL FOR LEGISLATIVE AFFAIRS
OREGON JUDICIAL DEPARTMENT**

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

My name is Erin M. Pettigrew of the Office of Legislative Affairs at the Oregon Judicial Department (OJD). While OJD is neutral on Senate Bill 1584, we take this opportunity to support the goals of the legislation in providing just outcomes for persons who have been convicted and incarcerated for a crime that they did not commit. We also note some technical considerations for the record.

SB 1584 will provide a legal mechanism to obtain compensation for persons previously convicted in Oregon of a felony crime that was later reversed, vacated, or pardoned, and the person can prove by a preponderance of the evidence that that they did not commit the crime for which they were convicted.

We appreciate the care and thought that has gone into crafting the 2022 version of this concept. The proponents of the bill addressed many of OJD's technical concerns with the prior version of this bill. The Judicial Department believes that we will be able to implement the procedural pieces of SB 1584 that impact OJD, including the following requirements:

- The State Court Administrator must determine the percentage increase or decrease in the cost of living each calendar year and adjust the damage amounts provided in the bill;
- Courts will inform persons whose convictions are reversed or vacated of the general right to file a notice of a wrongful conviction petition established by the bill;
- When a court grants a petition for wrongful conviction, the court must set aside and seal the conviction and arrest records; and
- In a case where the court grants the petition, and upon request of the petitioner, the court will include in the judgment a certificate of innocence.

We note Section 1(7)(c) that states that when a court awards damages the court may also award to the petitioner access to existing state, local, or other programs that provide housing, counseling, housing assistance, eligibility for medical assistance, and other types of assistance, if the court deems it appropriate. We appreciate the testimony of Janis Puracal from the Forensic Justice Project at the public hearing on February 8, 2022, clarifying that the purpose of that section of the bill is to empower courts to award existing access to programs and services when the court determines that it is appropriate and such resources exist. We share that understanding of Section 1(7)(c) of the bill, and hope to clarify that those sorts of services are frequently subject to eligibility, availability, and other considerations outside of a court's control.

Additionally, OJD would suggest that the bill be more specific about how a successful petitioner obtains any awarded funds for restitution and other associated fees, costs, etc. under Section 1(7)(b). The bill could also benefit from clarity as to whether the awarded funds will come from

the state's General Fund like other damage awards under the bill, rather than from OJD's budget or from individuals who received restitution payments as victims.

Finally, we understand that this bill would not abrogate any of the important judicial immunities that apply to judicial acts.

Thank you for considering my written testimony. I am available to answer questions.