

SB 321 B STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Joint Committee On Ways and Means**Action Date:** 06/09/23**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Senate Vote****Yeas:** 9 - Anderson, Campos, Dembrow, Findley, Frederick, Gelsner Blouin, Hansell, Sollman, Steiner**Nays:** 1 - Knopp**Exc:** 1 - Girod**House Vote****Yeas:** 12 - Breese-Iverson, Cate, Evans, Gomberg, Holvey, Lewis, McLain, Pham K, Reschke, Sanchez, Smith G, Valderrama**Fiscal:** Fiscal impact issued**Revenue:** No revenue impact**Prepared By:** John Borden, Budget Analyst**Meeting Dates:** 6/6, 6/9**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 until December 30, 2024. Specifies evidentiary requirements, for petitions filed on or after effective date of measure, to prove verdict was nonunanimous and provides standard proof is preponderance of the evidence. Specifies directions to court when post-conviction relief is granted. Provides process allowing persons with a pending appeal from a petition for post-conviction relief to amend petition to include a claim under new provision within 90 days of effective date of the measure. In a retrial for a conviction vacated under the measure, provides jury instructions regarding evidence that was previously admitted in the original trial but is no longer available and specifies evidence subject to jury instruction. Repeals certain provisions relating to post-conviction relief on January 2, 2026. Clarifies that reversal or vacation of a conviction because of a nonunanimous jury verdict is not sufficient to prove wrongful conviction. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Fiscal provisions of the measure related to current case law
- Rational for removal of the special purpose appropriation
- Omnibus measure special purpose appropriation

EFFECT OF AMENDMENT:

-A5 The -A5 amendment removes the special purpose appropriation to the Emergency Board.

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. In *Ramos v. Louisiana*, the U.S. Supreme Court held in 2020 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. In a subsequent case, *Edwards v. Vannoy*, the U.S. Supreme Court held that the *Ramos* jury unanimity rule did not apply retroactively on federal collateral review. However, the court noted that states may choose whether to

This summary has not been adopted or officially endorsed by action of the committee.

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allow retroactivity for state post-conviction cases. In 2022, The Oregon Supreme Court held in *Watkins v. Ackley* that the *Ramos* jury unanimity rule does apply retroactively under state law, meaning that anyone who had a nonunanimous jury conviction is entitled to a new trial. In order to get a new trial, an individual must file a post-conviction relief (PCR) claim.

Senate Bill 321 A creates a process by which a person convicted or found guilty except for insanity by a nonunanimous jury verdict may file a petition for post-conviction relief until two years after the *Watkins* decision date and appropriates funds for expenses related to carrying out provisions of the measure. The measure also specifies certain nontestimonial evidence may be used in certain circumstances upon retrial of a case.