

Senate Bill 1515

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the law about compensation for wrongful convictions and makes a new PCR process when a conviction is based on some discredited science. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 60.9).

Modifies provisions relating to petitions for compensation for wrongful conviction.

Creates a new post-conviction relief petition process when a person has a conviction that is based on expert testimony, expert evidence or expert opinion derived from specified discredited forensic science disciplines.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to wrongful convictions; creating new provisions; amending ORS 30.657, 30.659 and 138.510; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

COMPENSATION FOR WRONGFUL CONVICTION

SECTION 1. ORS 30.657 is amended to read:

30.657. (1) **The Legislative Assembly finds and declares that individuals who have been wrongly convicted of crimes and imprisoned in this state have been unable to obtain legal redress due to a number of substantive and technical obstacles in the law and that these individuals should have a timely avenue to obtain compensation and a finding of innocence following a wrongful conviction.**

[(1)] (2) A person may petition for compensation for wrongful conviction against the state if all of the following requirements are satisfied:

(a) The person was convicted of one or more felonies and subsequently imprisoned as a result of the conviction or convictions;

(b)(A) The person's conviction was reversed or vacated and either the charges were dismissed or on retrial the person was found not guilty; or

(B) The person received a grant of gubernatorial pardon;

(c) The person did not commit the crime or crimes for which the person was convicted and was not an accessory or accomplice to or otherwise involved in the acts that were the basis of the conviction **or any other conviction in the same criminal episode**; and

(d) The person did not commit perjury, fabricate evidence or by the person's own conduct cause or bring about the conviction. A confession or admission later found to be false or a guilty plea does not constitute committing perjury, fabricating evidence or causing or bringing about the conviction

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

under this paragraph.

[(2)] (3) For the purposes of subsection [(1)] (2) of this section:

(a) Reversal or vacation of a conviction because the conviction was obtained following a finding of guilt by a nonunanimous jury is not sufficient to prove that the person did not commit the crime or crimes for which the person was convicted.

(b) “Convicted” or “conviction” includes an adjudication of a person within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age if the adjudication resulted in the person’s placement in custody of the Oregon Youth Authority or the Department of Corrections for at least one year.

(c) **The following are sufficient to prove that the person did not commit the crime or crimes for which the person was convicted:**

(A) **A gubernatorial pardon with a written statement consistent with innocence; or**

(B) **A prior court’s finding that in light of all of the evidence, both old and new, no reasonable juror would have voted to find the person guilty beyond a reasonable doubt.**

(d) **The means described in paragraph (c) of this subsection are not the exclusive means by which a person may prove that they did not commit the crime or crimes for which the person was convicted, and nothing in paragraph (c) of this subsection limits or affects any other means by which a person may prove that the person did not commit the crime or crimes for which the person was convicted.**

[(3)] (4) A person may file a petition for compensation under this section in the Circuit Court for Marion County or in the circuit court for the county of conviction. The petitioner shall serve the petition on the Attorney General, who shall represent the state in all proceedings on the petition. The petitioner shall also mail a copy of the complaint to the District Attorney of the county of conviction.

[(4)(a)] (5)(a) A petition under this section is a civil action. The Oregon Rules of Civil Procedure and the Oregon Evidence Code apply to a petition under this section unless otherwise specified in this section.

(b) The court, in exercising its discretion regarding the weight and admissibility of evidence submitted under this section, may in the interest of justice give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by a petitioner or those acting on a petitioner’s behalf. The court may not diminish the petitioner’s burden of proof as set forth in subsection [(5)(a)] (7)(a) of this section.

(c) The *[fact finder]* court in a proceeding under this section may receive proof by declarations, depositions, oral testimony or other competent evidence **from any proceeding arising out of the facts or events that resulted in the petitioner’s conviction, or arising out of the conviction itself**, including but not limited to transcripts of testimony or documents and evidence filed with the court *[in any proceeding that gave rise to the conviction, reversal or vacation of the conviction, or from retrial following reversal]*.

(6)(a) **Notwithstanding subsection (5) of this section, a petitioner may not compel a victim, as defined in ORS 131.007, to testify by deposition, at trial or otherwise unless the petitioner obtains an order of the court allowing a subpoena.**

(b) **The court may not grant an order allowing a subpoena under this subsection unless the petitioner demonstrates that the victim’s testimony is relevant to the issues raised in the petition filed under this section.**

(c) If the court grants an order allowing a subpoena under this subsection, upon a request by the victim for no personal contact between the parties, the court may allow the victim to appear by simultaneous electronic transmission, including telephone, television or any other form of electronic communication transmission that allows the attorneys and the victim to communicate with each other during the deposition.

(d) If the petitioner or an agent of the petitioner contacts a victim, the petitioner or agent shall provide notice to the victim, either in person or in writing:

(A) Of the identity and capacity of the person contacting the victim;

(B) That the victim is not required to speak to the petitioner's attorney or other agents of the petitioner, or provide other information, unless the victim wishes or if subpoenaed as provided for in this subsection; and

(C) That the victim may have an assistant attorney general or other attorney or advocate present during any interview or other contact.

[(5)(a)] (7)(a) If a petitioner proves the elements of subsection [(1)] (2) of this section by a preponderance of the evidence, the court shall enter a judgment awarding damages as follows:

(A) Except as provided in paragraph (b) of this subsection, \$65,000 for each year of imprisonment, as adjusted under subsection [(8)] (10) of this section; and

(B) \$25,000, as adjusted under subsection [(8)] (10) of this section, for each additional year served on parole or post-prison supervision or each additional year the petitioner was required to register as a sex offender, whichever is greater.

(b) A petitioner is not entitled to damages for any period of incarceration during which the petitioner was concurrently serving a sentence for a conviction of another crime for which the petitioner was lawfully incarcerated.

(c) Punitive damages may not be awarded under this section.

[(6)(a)] (8)(a) Except as provided in paragraph (b) of this subsection, the court shall order that an award under subsection [(5)] (7) of this section be paid as a combination of an initial payment not to exceed \$100,000 or 25 percent of the award, whichever is greater, and the remainder as an annuity not to exceed \$80,000 per year. The petitioner shall designate a beneficiary or beneficiaries for the annuity.

(b) The court may order that the award be paid in one lump sum if the court finds that it is in the best interests of the petitioner.

[(7)] (9) In addition to the damages awarded under subsection [(5)] (7) of this section, the court:

(a) Shall award to the petitioner reasonable attorney fees and costs incurred in [*connection with a petition*] **an action** filed under this section;

(b) Shall award to the petitioner reimbursement for all restitution, assessments, fees, court costs and all other sums paid by the petitioner as required by pretrial orders, incarceration, and the judgment and sentence in any proceeding that gave rise to the conviction, reversal or vacation of the conviction, or from retrial following reversal; and

(c) May award to the petitioner access to existing state, local or other programs that provide services, including, but not limited to, counseling, housing assistance, eligibility for medical assistance as defined in ORS 414.025, educational assistance, job training, legal services to regain custody of children, assistance with food and transportation and personal financial literacy assistance, as appropriate.

[(8)] (10) Beginning in 2023, and every year thereafter, the State Court Administrator shall determine the percentage increase or decrease in the cost of living for the previous calendar year,

based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. On or before July 1 of the year in which the State Court Administrator makes the determination required by this subsection, the State Court Administrator shall adjust the amounts prescribed under subsection [(5)] (7) of this section for the following calendar year by multiplying the amounts applicable to the calendar year in which the adjustment is made by the percentage amount determined under this subsection. The adjustment may not exceed three percent for any year. The State Court Administrator shall round the adjusted limitation amount to the nearest \$100, but the unrounded amount shall be used to calculate the adjustments to the amounts in subsequent calendar years. The adjusted amounts become effective on July 1 of the year in which the adjustment is made, and apply to all petitions filed under this section on or after July 1 of that year and before July 1 of the subsequent year.

[(9)(a)] (11)(a) If, on the date a judgment is entered under subsection [(5)] (7) of this section, the petitioner has won a monetary award against a public body as defined in ORS 174.109 in a separate civil action related to the same subject, or has entered into a settlement agreement with a public body as defined in ORS 174.109 related to the same subject, the amount of economic damages awarded in the separate action or received in the settlement agreement, less any sums paid to litigate the other civil action or obtain the settlement agreement, including, but not limited to, attorney fees, costs and expert fees, shall be deducted from the sum of money to which the petitioner is entitled under this section. **The petitioner shall provide information about other monetary awards to the court.** The court shall include in the judgment an award to the state of any amount deducted pursuant to this subsection.

(b) If paragraph (a) of this subsection does not apply and if, after the date the judgment is entered under subsection [(5)] (7) of this section, the petitioner wins a monetary award against a public body as defined in ORS 174.109 in a separate civil action related to the same subject, or enters into a settlement agreement with a public body as defined in ORS 174.109 related to the same subject, the petitioner shall reimburse the state for the sum of money paid under the judgment entered under subsection [(5)] (7) of this section, less any sums paid to litigate the other civil action or obtain the settlement agreement, including, but not limited to, attorney fees, costs and expert fees. A reimbursement required under this subsection may not exceed the amount of the economic damages awarded in the separate civil action or received in the settlement agreement.

(c) An award under this section shall not be offset by any expenses incurred by a public body as defined in ORS 174.109 to secure the petitioner's custody or conviction, or to feed, clothe, house or provide medical services to the petitioner as a result of the petitioner's incarceration.

[(10)] (12) Compensation awarded as a result of a petition for compensation for wrongful conviction under this section is excluded from gross income and is not subject to taxation.

[(11)] (13) A petition under this section is not subject to ORS 30.260 to 30.300.

[(12)(a)] *If the petitioner prevails on a petition under this section, the petitioner may request that judgment include a certificate of innocence finding that the petitioner was innocent of all crimes for which the petitioner was wrongfully convicted.]*

(14)(a) If the court enters a judgment under subsection (7) of this section, the court shall include in the judgment a certificate of innocence stating that the petitioner has established by a preponderance of evidence that the petitioner is innocent of all crimes for which the petitioner was wrongfully convicted.

(b) Upon entry of a judgment granting a petition under this section, the court shall order the

1 associated convictions and arrest records be set aside and sealed from all applicable state and fed-
 2 eral systems pursuant to this subsection. The court shall enter the set aside order regardless of
 3 whether the petitioner has other criminal convictions or pending criminal cases.

4 [(13)] (15) Notwithstanding ORS 12.115, a petition under this section must be filed no later than
 5 two years after:

6 (a) The date of dismissal of the criminal charges against the petitioner or finding of not guilty
 7 on retrial, whichever is later; or

8 (b) The grant of pardon to the petitioner.

9 [(14)] (16) Any party to a proceeding under this section may appeal from the judgment of the
 10 circuit court on a petition filed under this section by filing a notice of appeal within the time and
 11 in the manner specified in ORS chapter 19 for civil appeals to the Court of Appeals. Any party filing
 12 a notice of appeal under this subsection must note in the notice of appeal that the case is subject
 13 to this subsection. For purposes of any appeals under this section, the Attorney General shall rep-
 14 resent the state in all appellate proceedings. The party filing the notice of appeal shall serve the
 15 notice of appeal on the Attorney General and on the district attorney for the county of conviction.

16 [(15)] (17) This section does not preclude the Department of Corrections from providing reentry
 17 services to a petitioner under this section that are provided to other persons, including, but not
 18 limited to, financial assistance, housing assistance, mentoring and counseling. Services may be pro-
 19 vided while an action is pending and after any judgment is entered, as appropriate for the petitioner.

20 **SECTION 2. (1) Upon service of a petition filed under ORS 30.657, the Attorney General**
 21 **shall begin a review of the claim for compensation. The review must include consideration**
 22 **of any evidence from the petitioner or the district attorney and any newly presented evidence**
 23 **that tends to satisfy the requirements of ORS 30.657 (2).**

24 **(2) Within 180 days after the Attorney General receives the petition filed under ORS**
 25 **30.657, the underlying district attorney case file from the county of conviction, all trial, ap-**
 26 **pellate, post-conviction and federal habeas court records and any newly presented evidence**
 27 **of innocence, the Attorney General shall make a written determination whether the evi-**
 28 **dence, including newly presented evidence of innocence, satisfies the requirements of ORS**
 29 **30.657 (2). If the Attorney General determines that the requirements are satisfied, the At-**
 30 **torney General may not oppose the petition and may not oppose entry of judgment in the**
 31 **petitioner's favor awarding the relief required by ORS 30.657 (7), (8), (9) and (14).**

32 **(3) The Attorney General shall submit an annual report in the manner provided in ORS**
 33 **192.245 to an interim committee of the Legislative Assembly relating to the judiciary. The**
 34 **report must summarize the determinations made under this section in the preceding year**
 35 **and include the amount of attorney fees incurred in connection with each notice and petition**
 36 **filed in the preceding year.**

37 **SECTION 3.** ORS 30.659 is amended to read:

38 30.659. (1) A person may not file a petition under ORS 30.657 unless notice of petition is given
 39 as required by this section.

40 (2) Notice of petition shall be given within 180 days after the date on which the charges were
 41 dismissed, the person was found not guilty on retrial or the person received a grant of pardon. The
 42 period of time shall not include the period, not exceeding 90 days, during which the person is unable
 43 to give notice because of injury or [because of] minority, incompetency or other incapacity.

44 (3) Notice of petition required by this section is satisfied by:

45 (a) Formal notice of petition as provided in subsection (4) of this section;

(b) Filing of a petition under ORS 30.657 by or on behalf of the person within the applicable period of time provided in subsection (2) of this section;

(c) Notice of claim under ORS 30.275 for any action against a public body, as defined in ORS 174.109, or any officer, employee or agent of the public body arising out of the facts and circumstances that gave rise to the wrongful conviction; or

(d) Payment of compensation for wrongful conviction by or on behalf of the state at any time.

(4) Formal notice of petition is a written communication from a claimant or representative of a claimant containing:

(a) A statement that a petition for wrongful conviction under ORS 30.657 is or will be filed;

(b) The date on which the charges were dismissed, the person was found not guilty on retrial or the person received a grant of pardon; and

(c) The name of the claimant and the mailing address to which correspondence concerning the petition may be sent.

(5) Notice is sufficient where the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the state arising out of wrongful conviction.

(6) Formal notice of petition shall be given by mail, electronic mail or personal delivery to the office of the Director of the Oregon Department of Administrative Services. Service by mail is complete on mailing, and service by electronic mail is complete on sending.

(7) Failure to provide timely notice shall not be a bar to suit if good cause for the failure is shown. Good cause shall not be unreasonably withheld.

(8) At the time of judgment after a person's conviction is reversed or vacated, and either the charges are dismissed or on retrial the person is found not guilty, as described in ORS 30.657 [(1)(b)(A)] (2)(b)(A), the court shall advise the person of the right to file a notice within 180 days under this section. If the person is not present, the court shall advise the person in writing of the right to file a notice within 180 days under this section.

SECTION 4. (1) Section 2 of this 2026 Act applies to petitions filed under ORS 30.657 on or after the effective date of this 2026 Act.

(2)(a) The amendments to ORS 30.657 and 30.659 by sections 1 and 3 of this 2026 Act apply to petitions filed under ORS 30.657 before, on or after the effective date of this 2026 Act for which a court has not entered a final judgment before the effective date of this 2026 Act.

(b) As used in paragraph (a) of this subsection, "final judgment" means a judgment that is not subject to further appeal or review or for which the time to file an appeal has expired without a party filing an appeal.

POST-CONVICTION RELIEF BASED ON DISCREDITED FORENSIC SCIENCE

SECTION 5. Section 6 of this 2026 Act is added to and made a part of ORS 138.510 to 138.680.

SECTION 6. (1) A person convicted of a crime may file a petition for post-conviction relief if the conviction was based in whole or in part on expert testimony, expert evidence or expert opinion derived from the application of one or more of the following discredited forensic science disciplines:

(a) Hair microscopy;

(b) Bite mark analysis or bite mark comparison; or

1 (c) Comparative bullet lead analysis.

2 (2) Notwithstanding ORS 138.530, in a post-conviction relief proceeding based on a petition
3 described in this section, the court shall grant relief if the petitioner proves, by a prepon-
4 derance of the evidence:

5 (a) That the petitioner was convicted of a crime based substantially on expert testimony,
6 expert evidence or expert opinion that applied one or more of the discredited forensic science
7 disciplines described in subsection (1) of this section; and

8 (b)(A) If the petitioner was convicted at trial, that there is a reasonable probability that
9 had the expert testimony, expert evidence or expert opinion applying the discredited forensic
10 science discipline not been admitted at trial, the outcome of the trial would have been dif-
11 ferent; or

12 (B) If the petitioner was convicted after pleading guilty or no contest:

13 (i) That the expert testimony, expert evidence or expert opinion applying one or more of
14 the discredited forensic science disciplines was known to the petitioner at the time of en-
15 tering the plea; and

16 (ii) That the expert testimony, expert evidence or expert opinion was a material factor
17 in the petitioner's decision to plead guilty or no contest.

18 (3) When making a determination under subsection (2) of this section, the court shall
19 follow the procedures described in ORS 138.620.

20 (4) Notwithstanding ORS 138.520, if court finds that the petitioner has met the require-
21 ments of subsection (2) of this section, the court shall grant the petitioner a new trial on
22 all charges in the case.

23 (5) ORS 138.550 (3) and (4) do not apply to petitions for post-conviction relief described
24 in this section.

25 (6) A person may file a petition under this section notwithstanding the fact that:

26 (a) The person did not object to the admission of the expert testimony, expert evidence
27 or expert opinion applying the discredited forensic science discipline at trial or raise the is-
28 sue on appeal, unless the trial occurred on or after the effective date of this 2026 Act;

29 (b) The person pleaded guilty or no contest to the conviction;

30 (c) Before or after the conviction, the person made a confession or admission; or

31 (d) The person has completed the sentence associated with the conviction.

32 (7) This section shall be liberally construed to promote justice and to correct wrongful
33 convictions based on discredited forensic science disciplines.

34 (8) As used in this section:

35 (a) "Bite mark analysis" means the diagnosis of an injury as a human bite mark.

36 (b)(A) "Bite mark comparison" means the use of dental records and impressions to
37 compare the bite marks left on a victim or object with the dentition of a known individual,
38 that involves the subjective analysis of the characteristics of the bite mark and the dental
39 profile to form an opinion as to whether the known individual created the bite mark, and
40 includes all forms of odontological analysis, including the assessment of shape, size, spacing
41 and alignment of teeth.

42 (B) "Bite mark comparison" does not include using dental remains for identification of
43 a deceased individual or making an identification based on DNA analysis of any biological
44 material that may be present within or around a bite mark.

45 (c) "Comparative bullet lead analysis" means the forensic examination of the chemical

composition of bullet fragments found at a crime scene, that is performed to determine if the elemental composition of the fragments is consistent with that of a bullet or ammunition found in the possession of a suspect, and that is based on the assumption that a given quantity of lead has a unique chemical signature.

(d) “DNA” means deoxyribonucleic acid.

(e)(A) “Hair microscopy” means the use of a stereo microscope to analyze the physical characteristics of a hair sample from an unknown source, including the sample’s color, shaft form, texture, medullary pattern and scale structure, and to compare the sample with a hair sample from a known individual, as the basis of expert testimony, expert evidence or expert opinion applying probabilities to the inclusion of the known individual as the source of the hair, and is limited to situations in which:

(i) The expert stated or implied that the hair sample from the unknown source could be associated with a specific individual to the exclusion of all other individuals;

(ii) The expert assigned to the positive association a statistical weight or probability, provided a likelihood that the hair sample from the unknown source originated from a particular individual or was consistent with a particular individual, or provided an opinion as to the likelihood or rareness of the positive association that could lead a fact finder to believe that a valid statistical weight can be assigned to microscopic hair comparison; or

(iii) The expert cited the number of microscopic hair analyses performed by the expert or the expert’s laboratory, and the number of samples from different individuals that could not be distinguished from one another after analysis, as a predictive value to bolster the conclusion that a hair sample belongs to a specific individual.

(B) “Hair microscopy” does not include any analysis of hair that involves mitochondrial or nuclear DNA testing.

SECTION 7. ORS 138.510 is amended to read:

138.510. (1) Except as otherwise provided in ORS 138.540, any person convicted of a crime under the laws of this state may file a petition for post-conviction relief pursuant to ORS 138.510 to 138.680.

(2) A petition for post-conviction relief may be filed by one person on behalf of another person who has been convicted of aggravated murder and sentenced to death only if the person filing the petition demonstrates by a preponderance of the evidence that:

(a) The person sentenced to death is unable to file a petition on the person’s own behalf due to mental incapacity or because of a lack of access to the court; and

(b) The person filing the petition has a significant relationship with the person sentenced to death and will act in the best interest of the person on whose behalf the petition is being filed.

(3) **Except as provided in section 6 of this 2026 Act**, a petition pursuant to ORS 138.510 to 138.680 must be filed within two years of the following, unless the court on hearing a subsequent petition finds grounds for relief asserted which could not reasonably have been raised in the original or amended petition:

(a) If no appeal is taken, the date the judgment or order on the conviction was entered in the register.

(b) If an appeal is taken, the date the appeal is final in the Oregon appellate courts.

(c) If a petition for certiorari to the United States Supreme Court is filed, the later of:

(A) The date of denial of certiorari, if the petition is denied; or

(B) The date of entry of a final state court judgment following remand from the United States

Supreme Court.

(4) **Except as provided in section 6 of this 2026 Act**, a one-year filing period shall apply retroactively to petitions filed by persons whose convictions and appeals became final before August 5, 1989, and any such petitions must be filed within one year after November 4, 1993. A person whose post-conviction petition was dismissed prior to November 4, 1993, cannot file another post-conviction petition involving the same case.

(5) The remedy created by ORS 138.510 to 138.680 is available to persons convicted before May 26, 1959.

[(6) In any post-conviction proceeding pending in the courts of this state on May 26, 1959, the person seeking relief in such proceedings shall be allowed to amend the action and seek relief under ORS 138.510 to 138.680. If such person does not choose to amend the action in this manner, the law existing prior to May 26, 1959, shall govern the case.]

SECTION 8. Section 6 of this 2026 Act and the amendments to ORS 138.510 by section 7 of this 2026 Act apply to:

(1) **Convictions for which direct appeals have not been exhausted on the effective date of this 2026 Act.**

(2) **A person who exhausted all direct appeals for a conviction before the effective date of this 2026 Act who files a petition under section 6 of this 2026 Act no later than two years after the effective date of this 2026 Act.**

CAPTIONS

SECTION 9. The unit captions used in this 2026 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2026 Act.

EMERGENCY CLAUSE

SECTION 10. This 2026 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect on its passage.