



**TO: Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice Chair
Senate Committee on Judiciary**

FR: Oregon District Attorney's Association

RE: Concerns with SB 1515

February 3, 2026

Chair Prozanski and Members of the Senate Committee on Judiciary:

SB 1515 is a vehicle to dramatically reshape the criminal justice system in Oregon and undermine legally valid convictions. We respectfully urge the committee to reconsider the sweeping changes this law would create for the following reasons:

- **Unnecessary:** Even beyond the current trial, appeal, and post-conviction relief process, current law already has numerous safety valves in place to provide relief for individuals who were convicted but are factually innocent. (see below). Furthermore, there are ways to challenge convictions based on questioned science.¹ But, SB 1515 creates an entirely new basis for post-conviction relief that goes far beyond the type of relief available in the current Post-Conviction Hearing Act (PCHA).
- **SB 1515 Includes Guilty Pleas:** SB 1515 is particularly concerning because it extends to individuals who provided a court a factual reason why they were guilty, which is required before a court can accept guilty or no contest plea. See ORS 135.395 (requiring a court to make such inquiry as to satisfy the court there is a factual basis for the plea). If passed, SB 1515 will become the only post-conviction method that specifically allows a petitioner to challenge a guilty plea.
- **SB 1515 is Expensive:** Proponents of SB 1515 have suggested that SB 1515 has no fiscal impact. The reality is that retrials resulting from SB 1515 will increase costs for all parts of the criminal justice system, including Public Defense lawyers, District Attorneys, the Department of Justice, and the Judicial Branch now and for years to come.
- **Science should be decided by scientists.** SB 1515 defines what it deems “discredited science.”² If passed, SB 1515 will be the vehicle to further push the envelope of what is considered “discredited science.” Moving forward, legislative hearings will be focused on adding more forms of “discredited” science. These hearings will replace Oregon’s evidence code and judicial

¹ See e.g., *Lyons v. Fhuere*, Case no. 24CV303882 (pending PCR case in Marion Co. where the petitioner is represented by the proponents of this bill, arguing that “The admission of invalid scientific evidence in a criminal case violates the United States and Oregon Constitutions and can render a criminal prosecution fundamentally unfair.”)(Trial is set for May 2026)

² In its original conception, that definition was too broad, incorrect, and subject to significant debate. ODAA will look to the amendment to ensure the definition to ensure that it wasn’t overbroad and bias against convictions.

analysis with legislative process. Furthermore, science and technology continues to develop incrementally but, SB 1515 does not account for advances in scientific concepts, findings or technology.

- **The science is only “discredited” if the State uses it.** As written, SB 1515 creates a chilling effect on the State offering such evidence, but allows the defense to use these “discredited” sciences to create doubt of innocence at every stage of the process. In effect, it places a thumb on the scale of justice in favor of the defendant during a post-conviction relief proceeding.
- **Eliminates Statute of Ultimate Repose:** In addition to creating a new claim for relief, SB 1515 makes that claim available for anyone to challenge their conviction—no matter how old, so long as they are still living.
- **Lacks Finality:** SB 1515 bill will undermine public trust in the finality of convictions—a cornerstone of our judicial system—often at the expense of the victims and witnesses who will delay closure and revisit extremely traumatic crimes every time a new claim is filed.

Oregon Law Already Provides for Relief:

The Oregon Legislature has created and passed many impactful criminal justice reform laws. Some of these laws provide mechanisms to vacate unjust convictions and programs to compensate those who can prove they were wrongfully convicted.

In 2019, the Legislature enacted significant reforms to allow for relief in cases involving newly discovered DNA evidence (including evidence newly available due to advances in DNA technology). ORS 138.688-138.700. These statutes already provide a safety valve for re-examining these issues, but are limited to cases where the new evidence shows that the convicted person is actually innocent.

In 2021, the Legislature provided district attorneys with authority to jointly petition (with the defendant) “for reconsideration of a conviction” that “no longer advances the interests of justice.” ORS 137.218(1)(a). That authority would extend to an agreement to vacate a conviction based on new evidence. In other words, in situations where there is broad agreement that a wrongful conviction has occurred, current statutes already provide adequate mechanisms for vacating those convictions.

In 2022, the Legislature also created an avenue to allow people who were wrongfully convicted and actually innocent of their alleged offense to be financially compensated for the time they were incarcerated or on probation. Expansion of that legislation is included in this bill.

Finally, the Governor has the constitutional power to pardon convictions and commute sentences, particularly if new evidence calls the conviction into doubt or otherwise undermines confidence in whether justice was served.

Now is not the time to make an additional avenue to collaterally attack convictions in Oregon.

In conclusion, ODAA has no interest in protecting bad science nor invalid convictions. We have made thoughtful and intentional amendments that would recognize the narrow intent of the bill as presented to us while narrowing the retrial period to 2-years, just like this Legislature did in previous policy bills. We hope this Committee will carefully consider those amendments (enclosed here).

**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 scientific testimony, scientific expert evidence or
scientific 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

(c) Comparative bullet lead analysis.

**(2) Notwithstanding ORS 138.530, in a post-conviction relief pro-
ceeding based on a petition described in this section, the court shall
grant relief if the petitioner proves, by a preponderance of the evi-
dence:**

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

**(b)(A) If the petitioner was convicted at trial, that there is a rea-
sonable probability that had the expert testimony, expert evidence or
expert opinion applying the discredited forensic science discipline not**

1 been admitted at trial, the verdict outcome of the trial would have
been dif-

2 ferent. The fact that this testimony, evidence or opinion was offered in
trial, without more, is insufficient to meet this standard; ~~or~~

3 ~~(B) If the petitioner was convicted after pleading guilty or no con-~~
4 ~~test:~~

5 ~~(i) That the scientific expert testimony, scientific expert~~
~~evidence or scientific expert opinion~~

6 ~~applying one or more of the discredited forensic science disciplines was~~
7 ~~known to the petitioner at the time of entering the plea; and~~

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

113 (3) When making a determination under subsection (2) of this sec-
124 tion, the court shall follow the procedures described in ORS 138.620.

135 (4) Notwithstanding ORS 138.520, if court finds that the petitioner
146 has met the requirements of subsection (2) of this section, the court
157 shall grant ~~the petitioner a new trial on all charges in the~~
ease, whatever relief the court deems appropriate under ORS 138.520.

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

1810 (6) A person may file a petition under this section notwithstanding
1911 the fact that:

2012 (a) The person did not object to the admission of the scientific
expert testi-

2113 mony, scientific expert evidence or scientific expert
opinion applying the discredited

2214 forensic science discipline at trial or raise the issue on appeal, unless
2315 the trial occurred on or after the effective date of this 2026 Act;

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

25 ~~(c) Before or after the conviction, the person made a confession or~~
2616 ~~admission; or~~

2717 (d) The person has completed the sentence associated with the
2818 conviction.

~~29 (7) This section shall be liberally construed to promote justice and~~
~~30 to correct wrongful convictions based on discredited forensic science~~
~~31 disciplines.~~

(8) As used in this section:

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

(b)(A) “Bite mark comparison” means the use of dental records and impressions to compare the bite marks left on a victim or object with the dentition of a known individual, that involves the subjective analysis of the characteristics of the bite mark and the dental profile to form an scientific expert opinion as to whether the known individual created the bite

mark, and includes ~~all forms of~~ odontological analysis, including the assessment of shape, size, spacing and alignment of teeth.

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

(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 scientific expert testimony, scientific ex-

pert evidence or scientific expert opinion by applying probabilities to the inclusion

of the known individual as the source of the hair, and is limited to situations in which:

~~31~~²⁹ (i) The expert stated or implied that the hair sample from the un-

1 known source could be associated with a specific individual to the ex-
2 clusion of all other individuals;

3 (ii) The expert assigned to the positive association a statistical
4 weight or probability, provided a likelihood that the hair sample from
5 the unknown source originated from a particular source-individual-
or was

65 consistent with a particular individual, or provided an opinion as to
76 the likelihood or rareness of the positive association that could lead
87 a fact finder to believe that a valid statistical weight can be assigned
98 to microscopic hair comparison; or

109 (iii) The expert cited the number of microscopic hair analyses per-
110 formed by the expert or the expert's laboratory, and the number of
121 samples from different individuals that could not be distinguished
132 from one another after analysis, as a predictive value to bolster the
143 conclusion that a hair sample belongs to a specific individual.

1514 (B) "Hair microscopy" does not include any analysis of hair that
1615 involves mitochondrial or nuclear DNA testing.

1716 **SECTION 7.** ORS 138.510 is amended to read:

1817 138.510. (1) Except as otherwise provided in ORS 138.540, any person
1918 convicted of a crime under the laws of this state may file a petition for
2019 post-conviction relief pursuant to ORS 138.510 to 138.680.

2120 (2) A petition for post-conviction relief may be filed by one person on
2221 behalf of another person who has been convicted of aggravated murder and
2322 sentenced to death only if the person filing the petition demonstrates by a
2423 preponderance of the evidence that:

2524 (a) The person sentenced to death is unable to file a petition on the
2625 person's own behalf due to mental incapacity or because of a lack of access
2726 to the court; and

2827 (b) The person filing the petition has a significant relationship with the
2928 person sentenced to death and will act in the best interest of the person on
3029 whose behalf the petition is being filed.

3130 (3) Except as provided in section 6 of this 2026 Act, a petition pursu-

ant 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

1 **the effective date of this 2026 Act who files a petition under section 6**
2 **of this 2026 Act no later than two years after the effective date of this**
3 **2026 Act.**

4 SECTION 8. (1) Section 5-7 of this 2026 Act is repealed on January 2, 2028.

(2) The repeal of section 1 of this 2026 Act does not affect:

(a) A petition or amended petition for post-conviction relief described in section 1 of this
2026 Act filed within the time limitations described in section 1 of this 2026 Act.

(b) A retrial resulting from the vacating of a conviction pursuant to section 1 of this 2026
Act.

[Note: This language mirrors the sunset/self repeal provisions of SB 321(2023) for non-unanimous verdicts and allows
the 2-year SOL to run for these new PCR claims and then requires new conversation for future legislatures to add
additional scientific methods if/when appropriate or revisit commission discussion]

5 **CAPTIONS**

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

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12 **EMERGENCY CLAUSE**

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

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