

**INNOCENCE  
PROJECT**



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Innocence  
Project

**FORENSIC JUSTICE PROJECT**  
the science of justice

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FAIR AND JUST  
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**SB 499**

*From the desk of*

## Compensation for Oregon's Wrongfully Convicted

Wrongful convictions have dramatically impacted the lives of innocent people in Oregon. Upon release, wrongfully convicted Oregonians face a number of immediate financial challenges that impact their ability to survive after wrongful incarceration, including housing, transportation, health services and insurance, mental health treatment, and other basic needs; years of lost income and inability to save for retirement while imprisoned; and missed educational and career opportunities. Some continue to struggle with a criminal conviction on their record, despite their innocence.

Oregon is one of only 14 states that does not compensate wrongfully convicted people.

The federal government, District of Columbia, and 36 states have laws to compensate wrongfully convicted people. Right now, the only way for wrongfully convicted Oregonians to get financial help they need to rebuild their lives is through civil lawsuits that are costly and time consuming, and don't provide help when an exoneree needs it most. The solution is a universal framework that will provide much-needed financial compensation to eligible exonerees, regardless of fault.

### SB 499 by Sen. Thatcher (and Gorsek, Dembrow, Gelser, Girod, Hansell, Jama)

- Provide **\$65,000 per year of wrongful imprisonment**, plus up to \$25,000 for years spent on parole, in post-prison supervision, or on the sex offender registry. (*National Picture: the federal government, D.C., and 10 states provide more than \$50,000 per year - TX, ID, CO, KS, CT, VT, NV, OH, CA*)
- Provide **access to non-monetary services** including counseling, housing assistance and personal financial literacy assistance. (*National Picture: 19 states offer services in their statutes*)
- Ensure **straightforward process for filing claims through the courts**, so eligibility is determined by judges and courts (*National Picture: 21 states and the federal government utilize the courts*)
- **Seal records** associated with the wrongful arrest and conviction, and **provide exoneree a certificate of innocence**, so exonerees can clear their names and move on with their lives.

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## Case Study: Earl Bain



Earl Bain was exonerated in August 2020 after spending 6 years in prison for sexual abuse that he did not commit. He had been wrongfully convicted by a nonunanimous jury in Malheur County in 2009, despite no witnesses or physical evidence in his case. Mr. Bain, an Afghanistan army veteran, received a rare pardon from Governor Kate Brown on the grounds of innocence. But his wrongful conviction and incarceration imposed many costs and hardships on his family. While he was able to clear his name with the help of the Oregon Innocence Project, he has still not received any compensation from the state of Oregon.

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## FAQ

### Will this have a large fiscal impact? How many people does this impact?

**No.** Since 1989, 15 people have been wrongfully incarcerated in Oregon, spending an average of 4 years behind bars before exoneration. In contrast to states with much larger exoneree populations that spent more time incarcerated, Oregon should not expect a large fiscal impact. Nationally, not all eligible people apply for compensation: only 53% filed claims and only 73.5% were approved<sup>1</sup>.

### How was the compensation amount determined?

In 2004, **President George W. Bush signed a law** that provides \$50,000 per year (\$67,000 in today's dollars). Similarly, Oregon's median household income is \$63,000. Recently passed laws in ID, KS, and NV recognize this amount as reasonable and equitable for exonerees and taxpayers.

### Who qualifies for compensation under SB 499?

To qualify, a person must have been wrongly convicted of a felony and imprisoned, and had their conviction reversed or vacated and either the charges were dismissed or the person was found not guilty on retrial, or they received a pardon on grounds of innocence. Additionally, the person must **present affirmative proof that they are innocent.**

### Can guilty people or people freed on legal technicalities be compensated under SB 499?

**No.** The eligibility criteria are tightly construed to ensure only innocent people are compensated. It requires affirmative evidence of innocence, which would be impossible to do if the person was guilty or had their conviction tossed on a legal technicality. The criteria strike a balance of ensuring a clear path for innocent people while ensuring those who were not innocent cannot access compensation.

### How does SB 499 relate to SB 819 (relating to petitions for conviction reconsideration)?

A person who is resentenced under SB 819 **would not** be eligible for compensation unless the conviction is reversed or vacated *and* the charges are then dismissed or they are found not guilty on retrial. Additionally, all petitioners still have to present evidence that they are innocent of the crime.

**Resentencing by itself does not make a person eligible for compensation.**

### How does SB499 relate to recent court decisions regarding nonunanimous juries?

Only if their charges are subsequently dismissed or they are found not guilty on retrial, *and* they can prove they are innocent of the crime. Earl Bain was wrongfully convicted by a nonunanimous jury in 2009, and was pardoned by Gov. Brown on grounds of innocence; this is an example of someone who would be eligible under SB 499.

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<sup>1</sup> Gutman, J., Sun, L. (2019). Why is Mississippi the Best State in Which to be Exonerated? An Empirical Evaluation of State Statutory and Civil Compensation for the Wrongfully Convicted. *Scholarly Commons*.