

SB 1511 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Prepared By: Gillian Fischer, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/2, 2/3

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 postconviction relief within one year of effective date of Act. Specifies evidentiary requirements to prove verdict was nonunanimous. Sunsets on January 1, 2025.

Authorizes district attorney to charge reasonable reimbursement fee for cost of providing copies of discovery materials in criminal case. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Removes authority granted to the district attorney to charge a reasonable reimbursement fee for costs of providing discovery materials effective January 1, 2024.

-2 Modifies procedures for requesting a court hearing to review a motion to set aside a conviction within 60 days of an objection based on eligibility. Requires a court hearing for review of objection to a motion to set aside if the objection is based on the person's circumstances and behavior.

Defines criminal history data provider. Authorizes the Attorney General to bring a civil action for injunctive relief against a criminal history data provider for certain statutory violations. Provides that a court may award to the Attorney General reasonable attorney fees and the costs of investigation, preparation and litigation if the Attorney General prevails in said action.

Repeals provisions requiring a sentencing court to order a presentence report for certain felony offenses.

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. The U.S. Supreme Court recently held 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. *Ramos v. Louisiana*, 140 S. Ct. 1390, 1391 (2020).

In a subsequent case, the U.S. Supreme Court held that the recently adopted *Ramos v. Louisiana* jury-unanimity rule did not apply retroactively on federal collateral review. *Edwards v. Vannoy*, 141 S. Ct. 1547, 1549 (2021). The Court noted in a footnote that states may choose to apply their own retroactivity rule for state post-conviction cases.

SB 1511 -1, -2 STAFF MEASURE SUMMARY

Senate Bill 1511 creates a process by which a person convicted or found guilty except for insanity by nonunanimous jury verdict may file a petition for postconviction relief and provides explicit authority to a district attorney to charge reasonable reimbursement fee for costs related to providing discovery materials.

PRELIMINARY