

**INNOCENCE
PROJECT**



Oregon
Innocence
Project

FORENSIC JUSTICE PROJECT
the science of justice



Oregon Department
of Justice



Oregon Justice for Exonerees Act (SB 1584)

*(Chief Sponsors: Thatcher, Gorsek, Power, Prozanski, Dembrow,
Lawrence Spence, Jama, Gelser, Sollman, Bynum)*

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 13 states that does not compensate wrongfully convicted people.

The federal government, District of Columbia, and 37 states have laws to compensate wrongfully convicted people. Right now, the only way for wrongfully convicted Oregonians to get the financial help they need to rebuild their lives is through civil lawsuits that are costly, 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.

Based off of compensation statutes recently passed in Idaho, Montana, and Kansas, SB 1584 will:

- 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: \$65,000 is based off the federal compensation claims amount signed into law by President Bush in 2004, adjusted for inflation)*
- 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: 26 states and the federal government utilize the courts)*
- **Seal records** associated with the wrongful arrest and conviction, and **provide exonerees 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.

FAQ

Will this have a large fiscal impact?

No. The Oregon Innocence Coalition estimates 13 exonerees may be eligible for up to \$5 million, if they all apply and are successful. The Coalition is seeking a general fund appropriation of \$5.5 million to fund compensation and DOJ costs associated with adjudicating the petitions.

How many people does this impact?

Since 1989, **15 people have been wrongfully incarcerated in Oregon**, spending an average of 4 years behind bars before exoneration. Nationally, not all eligible people apply for compensation: only 53% filed claims and only 73.5% were approved¹.

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 \$65,000 per year as reasonable and equitable for exonerees and taxpayers.

Who qualifies for compensation under SB 1584?

To qualify, a person must **present affirmative proof that they are innocent**. Additionally, they 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.

Can guilty people or people freed on legal technicalities be compensated under SB 1584?

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.

Who decides if a person has provided sufficient affirmative proof of innocence and under what standard?

Under SB 1584, a person must prove they are innocent by a **preponderance of evidence as determined by a judge** in order to receive compensation. The preponderance standard is the burden of proof for almost all civil cases, including federal wrongful conviction claims, and the vast majority of recently adopted state compensation laws.

How does SB 1584 relate to recent court decisions regarding nonunanimous juries?

If a person's conviction is overturned because they were convicted by a nonunanimous jury, they would **still have to prove innocence** in order to qualify for compensation under SB 1584. Additional language has been added to this version of the bill in order to make it clear that conviction by nonunanimous jury alone is not grounds for compensation.

¹ 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*.