

SB 1007 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Kris Kolta, LPRO Analyst

Meeting Dates: 2/27

WHAT THE MEASURE DOES:

This measure clarifies and adapts Oregon’s wrongful conviction compensation statute and increases the scope of available compensation.

Detailed Summary

Section 1(1): Legislative Intent

- Declares legislative intent to remedy substantive and technical hurdles that have prevented wrongly convicted individuals from receiving compensation under ORS 30.657.

Section 1(2(b)): Legal effect of gubernatorial clemency or court finding

- Clarifies that a written gubernatorial grant of clemency or court finding consistent with innocence by a preponderance of the evidence is sufficient to show that an individual was wrongly convicted.

Section 1(2(c-e)): Procedural changes to judicial consideration of petition for compensation

- Distinguishes the fact finder’s evaluation of the weight of the evidence from the court’s evaluation of the admissibility of the evidence.
- Expands the scope of admissible proof to include all evidence adduced in any proceeding arising from the facts or events that resulted in a petitioner’s conviction, including the conviction itself.
- Requires the fact finder to be instructed to find that the petitioner did not commit the crime(s) for which they were convicted if:
 - The petitioner establishes their innocence by a preponderance of the evidence, and
 - The state’s rebuttal does not establish guilt beyond a reasonable doubt.

Section 1(6-8, 13): Scope and measure of relief

- Extends available compensation to include all time spent in confinement and pretrial supervision.
- Requires court to award expert witness fees incurred by a prevailing petitioner.
- Allows the court to award the costs of tuition, books, and fees for up to four years of public university or community college as well the costs of up to 10 years of a health benefit plan.
- Directs the court to issue a certificate of innocence to a prevailing petitioner.

Section 2: Attorney General’s review of and joinder in petitions

- Directs the Attorney General to review all petitions and all newly presented evidence, including all evidence submitted by the petitioner or a district attorney.
- Requires the Attorney General to issue a written opinion on a petition within 180 days.
- Further requires, if the Attorney General finds petitioner innocent by a preponderance of the evidence, that the Attorney General jointly file a court petition for judgment in petitioner’s favor.
- Directs Attorney General to submit annual report to the legislature as to the dispositions of wrongful conviction petitions along with associated attorney fees.

Section 3: Extends notice period for incapacity

- Excludes any time during which the petitioner was a minor, incompetent, or incapacitated from calculation of the 180-day notice period in which a notice of petition must be filed.

Sections 4-6: Effective date

- Declares an emergency, effective on passage.
- Applies Sections 1 and 3 to petitions filed before, on, or after the effective date, so long as no judgment has been entered or the petitioner retains the right of appeal.
- Applies Section 2 to petitions filed on or after the effective date.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2022, the legislature unanimously passed state Senate Bill 1584, codified as ORS 30.657 and 30.659, to provide \$65,000 per year in compensation for each year a person was wrongfully imprisoned, upon the person's successful petition by civil action. The law requires the Department of Justice to represent the state's interests in all proceedings, including appeals.

The petitioner bears the burden of proof by a preponderance of the evidence to demonstrate four criteria, including that the person did not commit the crime or otherwise be involved in the acts that were the basis of the conviction. Unlike in a criminal case where the state has the burden of proving that the defendant *did* commit the crime, the petitioner has the burden of providing they *did not* commit the crime. Accordingly, a gubernatorial pardon or a District Attorney's decision not to retry an overturned conviction does not automatically entitle an exoneree to compensation. Pursuant to the terms and language of SB 1584, the Department of Justice has opposed compensation in most of the forty cases in which it has been sought. Oregon Public Broadcasting. *Oregon fights wrongful conviction payouts. A new bipartisan bill aims to end that*, <https://www.opb.org/article/2025/02/18/oregon-wrongful-convictions-bipartisan-bill-exonerated-exoneree-crim-e-justice/>