

## SENATE AMENDMENTS TO SENATE BILL 1007

By COMMITTEE ON JUDICIARY

March 20

On page 1 of the printed bill, delete lines 5 through 29 and delete pages 2 through 6 and insert:

**“SECTION 1.** ORS 30.657 is amended to read:

**“30.657. (1) The Legislative Assembly finds and declares that individuals who have been wrongly convicted of crimes and imprisoned in this state have been unable to obtain legal redress due to a number of substantive and technical obstacles in the law and that these individuals should have a timely avenue to obtain compensation and a finding of innocence following a wrongful conviction.**

**“[(1)] (2)** A person may petition for compensation for wrongful conviction against the state if all of the following requirements are satisfied:

**“(a)** The person was convicted of one or more felonies and subsequently imprisoned as a result of the conviction or convictions;

**“(b)(A)** The person’s conviction was reversed or vacated and either the charges were dismissed or on retrial the person was found not guilty; or

**“(B)** The person received a grant of gubernatorial pardon;

**“(c)** The person did not commit the crime or crimes for which the person was convicted and was not an accessory or accomplice to or otherwise involved in the acts that were the basis of the conviction; and

**“(d)** The person did not commit perjury, fabricate evidence or by the person’s own conduct cause or bring about the conviction. A confession or admission later found to be false or a guilty plea does not constitute committing perjury, fabricating evidence or causing or bringing about the conviction under this paragraph.

**“[(2)] (3)** For the purposes of subsection **[(1)] (2)** of this section:

**“(a)** Reversal or vacation of a conviction because the conviction was obtained following a finding of guilt by a nonunanimous jury is not sufficient to prove that the person did not commit the crime or crimes for which the person was convicted.

**“(b)** ‘Convicted’ or ‘conviction’ includes an adjudication of a person within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age if the adjudication resulted in the person’s placement in custody of the Oregon Youth Authority or the Department of Corrections for at least one year.

**“(c) The following are sufficient to prove that the person did not commit the crime or crimes for which the person was convicted:**

**“(A) A gubernatorial pardon with a written statement consistent with innocence;**

**“(B) A prior court’s finding that in light of all of the evidence, both old and new, no reasonable juror would have voted to find the person guilty beyond a reasonable doubt; or**

**“(C) Proof that a nationally recognized registry for those who have been exonerated has**

1 determined that, following a post-conviction reexamination of the evidence in the case, the  
2 person was exonerated and relieved of all the consequences of the criminal conviction as  
3 described in subsection (4) of this section.

4 “(4)(a) A nationally recognized registry for those who have been exonerated has deter-  
5 mined that a person was exonerated and relieved of all the consequences of a criminal con-  
6 viction if the registry has determined that the person:

7 “(A) Was declared to be factually innocent by a government official or agency with the  
8 authority to make that declaration; or

9 “(B)(i) Received a gubernatorial pardon, whether or not the pardon is designated as based  
10 on innocence; or

11 “(ii) Received an acquittal of all charges factually related to the crime or crimes for  
12 which the person was originally convicted in a court of the jurisdiction in which the person  
13 was convicted; or

14 “(iii) Received a dismissal of all charges related to the crime or crimes for which the  
15 person was originally convicted by a court or by a prosecutor with the authority to enter  
16 that dismissal.

17 “(b)(A) A pardon, acquittal or dismissal described in paragraph (a) of this subsection  
18 must have occurred after evidence of innocence became available that:

19 “(i) Was not presented at the trial at which the person was convicted; or

20 “(ii) If the person pled guilty, was not known by the person and the court at the time the  
21 plea was entered.

22 “(B) The evidence of innocence required under this paragraph need not be an explicit  
23 basis for the official act that exonerated the person.

24 “(c) A person who otherwise meets the requirements of this subsection has not been  
25 exonerated if there is unexplained physical evidence of the person’s guilt.

26 “[3] (5) A person may file a petition for compensation under this section in the Circuit Court  
27 for Marion County or in the circuit court for the county of conviction. The petitioner shall serve  
28 the petition on the Attorney General, who shall represent the state in all proceedings on the peti-  
29 tion. The petitioner shall also mail a copy of the complaint to the District Attorney of the county  
30 of conviction.

31 “[4](a) (6)(a) A petition under this section is a civil action. The Oregon Rules of Civil Proce-  
32 dure and the Oregon Evidence Code apply to a petition under this section unless otherwise specified  
33 in this section.

34 “(b) The court, in exercising its discretion regarding the weight and admissibility of evidence  
35 submitted under this section, may in the interest of justice give due consideration to difficulties of  
36 proof caused by the passage of time, the death or unavailability of witnesses, the destruction of ev-  
37 idence or other factors not caused by a petitioner or those acting on a petitioner’s behalf. The court  
38 may not diminish the petitioner’s burden of proof as set forth in subsection [(5)(a)] (7)(a) of this  
39 section.

40 “(c) The *[fact finder]* court in a proceeding under this section may receive proof by declarations,  
41 depositions, oral testimony or other competent evidence **from any proceeding arising out of the**  
42 **facts or events that resulted in the petitioner’s conviction, or arising out of the conviction**  
43 **itself**, including but not limited to transcripts of testimony or documents and evidence filed with the  
44 court *[in any proceeding that gave rise to the conviction, reversal or vacation of the conviction, or from*  
45 *retrial following reversal]*.

1        “[5)(a)] (7)(a) If a petitioner proves the elements of subsection [(1)] (2) of this section by a  
2 preponderance of the evidence, the court shall enter a judgment awarding damages as follows:

3        “(A) Except as provided in paragraph (b) of this subsection, \$65,000 for each year of  
4 imprisonment **or confinement on the charge resulting in the conviction that was reversed,**  
5 **vacated or subject to pardon, including time spent awaiting trial or retrial,** as adjusted under  
6 subsection [(8)] (10) of this section; and

7        “(B) \$25,000, as adjusted under subsection [(8)] (10) of this section, for each additional year  
8 served on parole *[or]*, post-prison supervision **or pretrial supervision** or each additional year the  
9 petitioner was required to register as a sex offender, whichever is greater.

10        “(b) A petitioner is not entitled to damages for any period of incarceration during which the  
11 petitioner was concurrently serving a sentence for a conviction of another crime for which the  
12 petitioner was lawfully incarcerated.

13        “(c) Punitive damages may not be awarded under this section.

14        “[6)(a)] (8)(a) Except as provided in paragraph (b) of this subsection, the court shall order that  
15 an award under subsection [(5)] (7) of this section be paid as a combination of an initial payment  
16 not to exceed \$100,000 or 25 percent of the award, whichever is greater, and the remainder as an  
17 annuity not to exceed \$80,000 per year. The petitioner shall designate a beneficiary or beneficiaries  
18 for the annuity.

19        “(b) The court may order that the award be paid in one lump sum if the court finds that it is  
20 in the best interests of the petitioner.

21        “[7)] (9) In addition to the damages awarded under subsection [(5)] (7) of this section, the court:

22        “(a) Shall award to the petitioner reasonable attorney fees and costs, **including expert witness**  
23 **fees,** incurred in *[connection with a petition]* **an action** filed under this section;

24        “(b) Shall award to the petitioner reimbursement for all restitution, assessments, fees, court  
25 costs and all other sums paid by the petitioner as required by pretrial orders, incarceration, and the  
26 judgment and sentence in any proceeding that gave rise to the conviction, reversal or vacation of  
27 the conviction, or from retrial following reversal; and

28        “(c) May award to the petitioner **a one-time lump sum payment to be calculated at the time**  
29 **of entry of judgment based on evidence presented by the petitioner for the costs of:**

30        “(A) **Tuition, books and fees for up to four years for the petitioner to attend a public**  
31 **institution as defined in ORS 352.002 or a community college as defined in ORS 341.005;**

32        “(B) **Participation by the petitioner in a health benefit plan as defined in ORS 743B.005**  
33 **for up to 10 years, calculated using a plan comparison table for individual market plans**  
34 **published by the Department of Consumer and Business Services and evidence presented by**  
35 **the petitioner; and**

36        “(C) *[Access to]* **Accessing** existing state, local or other programs that provide services, in-  
37 cluding, but not limited to, counseling, housing assistance, *[eligibility for medical assistance as de-*  
38 *defined in ORS 414.025, educational assistance,]* job training, legal services to regain custody of  
39 children, assistance with food and transportation and personal financial literacy assistance, as ap-  
40 propriate.

41        “[8)] (10) Beginning in 2023, and every year thereafter, the State Court Administrator shall  
42 determine the percentage increase or decrease in the cost of living for the previous calendar year,  
43 based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items),  
44 as published by the Bureau of Labor Statistics of the United States Department of Labor. On or  
45 before July 1 of the year in which the State Court Administrator makes the determination required

1 by this subsection, the State Court Administrator shall adjust the amounts prescribed under sub-  
2 section [(5)] (7) of this section for the following calendar year by multiplying the amounts applicable  
3 to the calendar year in which the adjustment is made by the percentage amount determined under  
4 this subsection. The adjustment may not exceed three percent for any year. The State Court Ad-  
5 ministrator shall round the adjusted limitation amount to the nearest \$100, but the unrounded  
6 amount shall be used to calculate the adjustments to the amounts in subsequent calendar years. The  
7 adjusted amounts become effective on July 1 of the year in which the adjustment is made, and apply  
8 to all petitions filed under this section on or after July 1 of that year and before July 1 of the  
9 subsequent year.

10 “[9)(a)] (11)(a) If, on the date a judgment is entered under subsection [(5)] (7) of this section,  
11 the petitioner has won a monetary award against a public body as defined in ORS 174.109 in a  
12 separate civil action related to the same subject, or has entered into a settlement agreement with  
13 a public body as defined in ORS 174.109 related to the same subject, the amount of economic dam-  
14 ages awarded in the separate action or received in the settlement agreement, less any sums paid to  
15 litigate the other civil action or obtain the settlement agreement, including, but not limited to, at-  
16 torney fees, costs and expert fees, shall be deducted from the sum of money to which the petitioner  
17 is entitled under this section. The court shall include in the judgment an award to the state of any  
18 amount deducted pursuant to this subsection.

19 “(b) If paragraph (a) of this subsection does not apply and if, after the date the judgment is en-  
20 tered under subsection [(5)] (7) of this section, the petitioner wins a monetary award against a public  
21 body as defined in ORS 174.109 in a separate civil action related to the same subject, or enters into  
22 a settlement agreement with a public body as defined in ORS 174.109 related to the same subject,  
23 the petitioner shall reimburse the state for the sum of money paid under the judgment entered under  
24 subsection [(5)] (7) of this section, less any sums paid to litigate the other civil action or obtain the  
25 settlement agreement, including, but not limited to, attorney fees, costs and expert fees. A re-  
26 imbursement required under this subsection may not exceed the amount of the economic damages  
27 awarded in the separate civil action or received in the settlement agreement.

28 “(c) An award under this section shall not be offset by any expenses incurred by a public body  
29 as defined in ORS 174.109 to secure the petitioner’s custody or conviction, or to feed, clothe, house  
30 or provide medical services to the petitioner as a result of the petitioner’s incarceration.

31 “[10)] (12) Compensation awarded as a result of a petition for compensation for wrongful con-  
32 viction under this section is excluded from gross income and is not subject to taxation.

33 “[11)] (13) A petition under this section is not subject to ORS 30.260 to 30.300.

34 “[12)(a) *If the petitioner prevails on a petition under this section, the petitioner may request that*  
35 *judgment include a certificate of innocence finding that the petitioner was innocent of all crimes for*  
36 *which the petitioner was wrongfully convicted.*]

37 **“(14)(a) If the court enters a judgment under subsection (7) of this section, the court**  
38 **shall include in the judgment a certificate of innocence stating that the petitioner has es-**  
39 **tablished that the petitioner is innocent of all crimes for which the petitioner was wrongfully**  
40 **convicted.**

41 “(b) Upon entry of a judgment granting a petition under this section, the court shall order the  
42 associated convictions and arrest records be set aside and sealed from all applicable state and fed-  
43 eral systems pursuant to this subsection. The court shall enter the set aside order regardless of  
44 whether the petitioner has other criminal convictions or pending criminal cases.

45 “[13)] (15) Notwithstanding ORS 12.115, a petition under this section must be filed no later than

1 two years after:

2 “(a) The date of dismissal of the criminal charges against the petitioner or finding of not guilty  
3 on retrial, whichever is later; or

4 “(b) The grant of pardon to the petitioner.

5 “[14] (16) Any party to a proceeding under this section may appeal from the judgment of the  
6 circuit court on a petition filed under this section by filing a notice of appeal within the time and  
7 in the manner specified in ORS chapter 19 for civil appeals to the Court of Appeals. Any party filing  
8 a notice of appeal under this subsection must note in the notice of appeal that the case is subject  
9 to this subsection. For purposes of any appeals under this section, the Attorney General shall rep-  
10 resent the state in all appellate proceedings. The party filing the notice of appeal shall serve the  
11 notice of appeal on the Attorney General and on the district attorney for the county of conviction.

12 “[15] (17) This section does not preclude the Department of Corrections from providing reentry  
13 services to a petitioner under this section that are provided to other persons, including, but not  
14 limited to, financial assistance, housing assistance, mentoring and counseling. Services may be pro-  
15 vided while an action is pending and after any judgment is entered, as appropriate for the petitioner.

16 **“SECTION 2. (1) Upon service of a petition filed under ORS 30.657, the Attorney General**  
17 **shall begin a review of the claim for compensation. The review must include consideration**  
18 **of any evidence from the petitioner or the district attorney and any newly presented evidence**  
19 **that tends to satisfy the requirements of ORS 30.657 (2).**

20 **“(2) Within 180 days after the date the Attorney General receives service of the petition**  
21 **filed under ORS 30.657, the underlying district attorney case file from the county of con-**  
22 **viction, all trial, appellate, post-conviction and federal habeas court records and any newly**  
23 **presented evidence of innocence, the Attorney General shall make a written determination**  
24 **whether the evidence, including newly presented evidence of innocence, satisfies the re-**  
25 **quirements of ORS 30.657 (2). If the Attorney General determines that the requirements are**  
26 **satisfied, the Attorney General shall not oppose the petition and shall not oppose entry of**  
27 **judgment in the petitioner’s favor awarding the relief required by ORS 30.657 (7), (8), (9) and**  
28 **(14).**

29 **“(3) The Attorney General shall submit an annual report in the manner provided in ORS**  
30 **192.245 to an interim committee of the Legislative Assembly relating to the judiciary. The**  
31 **report must summarize the determinations made under this section in the preceding year**  
32 **and include the amount of attorney fees incurred in connection with each notice and petition**  
33 **filed in the preceding year.**

34 **“SECTION 3.** ORS 30.659 is amended to read:

35 **“30.659. (1) A person may not file a petition under ORS 30.657 unless notice of petition is given**  
36 **as required by this section.**

37 **“(2) Notice of petition shall be given within 180 days after the date on which the charges were**  
38 **dismissed, the person was found not guilty on retrial or the person received a grant of pardon. The**  
39 **period of time shall not include the period, not exceeding 90 days, during which the person is unable**  
40 **to give notice because of injury or the period during which the person is unable to give notice**  
41 **because of minority, incompetency or other incapacity.**

42 **“(3) Notice of petition required by this section is satisfied by:**

43 **“(a) Formal notice of petition as provided in subsection (4) of this section;**

44 **“(b) Filing of a petition under ORS 30.657 by or on behalf of the person within the applicable**  
45 **period of time provided in subsection (2) of this section;**

1 “(c) Notice of claim under ORS 30.275 for any action against a public body, as defined in ORS  
2 174.109, or any officer, employee or agent of the public body arising out of the facts and circum-  
3 stances that gave rise to the wrongful conviction; or

4 “(d) Payment of compensation for wrongful conviction by or on behalf of the state at any time.

5 “(4) Formal notice of petition is a written communication from a claimant or representative of  
6 a claimant containing:

7 “(a) A statement that a petition for wrongful conviction under ORS 30.657 is or will be filed;

8 “(b) The date on which the charges were dismissed, the person was found not guilty on retrial  
9 or the person received a grant of pardon; and

10 “(c) The name of the claimant and the mailing address to which correspondence concerning the  
11 petition may be sent.

12 “(5) Notice is sufficient where the communication is such that a reasonable person would con-  
13 clude that a particular person intends to assert a claim against the state arising out of wrongful  
14 conviction.

15 “(6) Formal notice of petition shall be given by mail, electronic mail or personal delivery to the  
16 office of the Director of the Oregon Department of Administrative Services. Service by mail is  
17 complete on mailing, and service by electronic mail is complete on sending.

18 “(7) Failure to provide timely notice shall not be a bar to suit if good cause for the failure is  
19 shown. Good cause shall not be unreasonably withheld.

20 “(8) At the time of judgment after a person’s conviction is reversed or vacated, and either the  
21 charges are dismissed or on retrial the person is found not guilty, as described in ORS 30.657  
22 [(1)(b)(A)] (2)(b)(A), the court shall advise the person of the right to file a notice within 180 days  
23 under this section. If the person is not present, the court shall advise the person in writing of the  
24 right to file a notice within 180 days under this section.

25 “**SECTION 4. (1) The amendments to ORS 30.657 and 30.659 by sections 1 and 3 of this**  
26 **2025 Act apply to petitions filed under ORS 30.657 before, on or after the effective date of this**  
27 **2025 Act for which a court has not entered a final judgment before the effective date of this**  
28 **2025 Act.**

29 “(2) As used in subsection (1) of this section, ‘final judgment’ means a judgment, includ-  
30 ing a judgment of dismissal, that is not subject to further appeal or review or for which the  
31 time to file an appeal has expired without a party filing an appeal.

32 “**SECTION 5. Section 2 of this 2025 Act applies to petitions filed under ORS 30.657 on or**  
33 **after the effective date of this 2025 Act.**

34 “**SECTION 6. This 2025 Act being necessary for the immediate preservation of the public**  
35 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**  
36 **July 15, 2025.”.**