

Senate Bill 572

Sponsored by Senators FREDERICK, MANNING JR, Representative NELSON; Senators CAMPOS, GOLDEN, Representatives CHAICHI, GAMBA (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act creates a new court process when a person can prove a criminal case is based on race. (Flesch Readability Score: 85.1).

Creates a process for challenging a charge, finding of guilt, conviction or sentence, by filing a motion in the trial court or a petition for post-conviction relief, based on evidence that the conviction or sentence was sought, obtained or imposed based on race, ethnicity or national origin.

Applies retroactively to specified cases beginning January 1, 2027.

A BILL FOR AN ACT

1
2 Relating to the Oregon Racial Justice Act; creating new provisions; and amending ORS 419C.270.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2025 Act shall be known and may be cited as the Oregon**
5 **Racial Justice Act.**

6 **SECTION 2. (1) A charge, finding of guilt or conviction sought or obtained on the basis**
7 **of race, ethnicity or national origin, or a sentence sought, obtained or imposed on the basis**
8 **of race, ethnicity or national origin, is legally invalid.**

9 **(2) A claim that a charge, finding of guilt, conviction or sentence is invalid under sub-**
10 **section (1) of this section is established if the defendant proves, by a preponderance of the**
11 **evidence, any of the following:**

12 **(a) The judge, an attorney in the case, a law enforcement officer involved in the case,**
13 **an expert witness or a juror exhibited bias or animus towards the defendant because of the**
14 **defendant's race, ethnicity or national origin.**

15 **(b) During the defendant's trial, in court and during the proceedings, the judge, an at-**
16 **torney in the case, a law enforcement officer involved in the case, an expert witness or a**
17 **juror used racially discriminatory language about the defendant's race, ethnicity or national**
18 **origin, or otherwise exhibited bias or animus towards the defendant because of the**
19 **defendant's race, ethnicity or national origin, whether or not the bias or animus was inten-**
20 **tional. This paragraph does not apply if the person speaking is describing language used by**
21 **another person that is relevant to the case or if the person speaking is giving a racially**
22 **neutral and unbiased physical description of a suspect.**

23 **(c) Race, ethnicity or national origin was a factor in the exercise of peremptory chal-**
24 **lenges. A defendant need not show that intentional discrimination occurred in the exercise**
25 **of peremptory challenges if proceeding on a claim based on this paragraph.**

26 **(d) The defendant was charged with or found guilty or convicted of a more serious of-**
27 **fense than defendants of other races, ethnicities or national origins who commit similar**
28 **conduct and are similarly situated, and the evidence establishes that in the county in which**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the defendant was charged, the prosecution more frequently sought or obtained convictions
2 for more serious offenses against persons who share the defendant's race, ethnicity or
3 national origin than defendants of other races, ethnicities or national origins.

4 (e) A longer or more severe sentence was imposed on the defendant than was imposed
5 on other similarly situated defendants convicted of the same offense, and the evidence es-
6 tablishes that in the county in which the defendant was sentenced, longer or more severe
7 sentences are more frequently imposed for the same offense on defendants who share the
8 defendant's race, ethnicity or national origin than on defendants of other races, ethnicities
9 or national origins.

10 (f) A longer or more severe sentence was imposed on the defendant than was imposed
11 on other similarly situated defendants convicted of the same offense, and the evidence es-
12 tablishes that in the county in which the defendant was sentenced, longer or more severe
13 sentences are more frequently imposed for the same offense on defendants in cases with
14 victims of one race, ethnicity or national origin than in cases with victims of other races,
15 ethnicities or national origins.

16 (3) A defendant may initiate a claim that a charge, finding of guilt, conviction or sentence
17 is invalid under subsection (1) of this section based on one or more circumstances described
18 in subsection (2) of this section by:

19 (a) Filing a motion in the trial court, if a judgment of conviction has not yet been en-
20 tered; or

21 (b) Filing a petition for post-conviction relief under ORS 138.510 to 138.680, if a judgment
22 of conviction has been entered. Except as otherwise provided in this section, the provisions
23 of ORS 138.510 to 138.680 apply to petitions for post-conviction relief filed under this para-
24 graph.

25 (4)(a) The defendant may continue to be represented by appointed trial counsel in a mo-
26 tion proceeding described in this section or, if filing a petition for post-conviction relief, may
27 have counsel appointed under ORS 138.590.

28 (b) If the defendant proceeds under subsection (3)(a) of this section and the motion is
29 based, in whole or in part, on the conduct or statements by the trial judge, the trial judge
30 may not preside over the motion.

31 (c) If the defendant proceeds under subsection (3)(a) of this section during trial, the
32 motion must be made as soon as practicable upon the defendant learning of the circum-
33 stances described in subsection (2) of this section. A motion that is not timely filed may be
34 deemed waived in the discretion of the court.

35 (5)(a) If the defendant proceeds under subsection (3)(a) of this section and makes a prima
36 facie showing in the motion of the claim, the court shall hold a hearing.

37 (b) Notwithstanding ORS 138.620, if the defendant proceeds under subsection (3)(b) of this
38 section and makes a prima facie showing in the petition of the claim, the court shall hold a
39 hearing.

40 (c) At the hearing, evidence may be presented by either party, including but not limited
41 to statistical evidence, aggregate data, expert testimony and the sworn testimony of wit-
42 nesses. The court may also appoint an independent expert. The court may consider out-of-
43 court statements that the court finds trustworthy and reliable, and statistical evidence and
44 aggregated data are admissible for the limited purpose of determining whether the claim has
45 been established.

1 (d) If the defendant proceeds under subsection (3)(a) of this section, the defendant has
2 the burden of proving a claim that a charge, finding of guilt, conviction or sentence is invalid
3 under subsection (1) of this section based on the establishment of one or more circumstances
4 described in subsection (2) of this section by a preponderance of the evidence.

5 (e) Notwithstanding ORS 138.530, if the defendant proceeds under subsection (3)(b) of this
6 section, relief described in subsection (7)(c) of this section shall be granted if the defendant
7 establishes that a conviction or sentence is invalid under subsection (1) of this section based
8 on the establishment of one or more circumstances described in subsection (2) of this section
9 by a preponderance of the evidence.

10 (f) At the conclusion of the hearing, the court shall make findings on the record.

11 (6) After filing, or concurrent with the filing of, a motion or petition under subsection
12 (3) of this section, the defendant may file a motion requesting disclosure to the defense of
13 all evidence relevant to the claim in the possession or control of the state. A motion filed
14 under this subsection shall describe the type of records or information sought. Upon a
15 showing of good cause, the court shall order the records to be released. Upon a showing of
16 good cause, and in order to protect a privacy right or privilege, the court may permit the
17 prosecution to redact information prior to disclosure or may subject disclosure to a protec-
18 tive order. If a statutory privilege or constitutional privacy right cannot be adequately pro-
19 tected by redaction or a protective order, the court shall not order the release of the
20 records.

21 (7)(a) Notwithstanding ORS 138.520 and any other law, if the court finds, by a prepon-
22 derance of the evidence, that the charge, finding of guilt, conviction or sentence is invalid
23 under subsection (1) of this section based on the establishment of one or more circumstances
24 described in subsection (2) of this section, the court shall impose a remedy specific to the
25 violation found as described in this subsection.

26 (b) If a judgment of conviction has not yet been entered in the case, the court may, as
27 appropriate:

28 (A) Reseat a juror removed by use of a peremptory challenge.

29 (B) Declare a mistrial, if requested by the defendant.

30 (C) Discharge the jury panel and impanel a new jury.

31 (D) Dismiss an enhancement or aggravating factor, or reduce one or more charges, if the
32 court determines such a remedy is in the interest of justice.

33 (c) If a judgment of conviction has been entered:

34 (A) If the court finds that a conviction was sought or obtained in violation of subsection
35 (1) of this section, the court shall vacate the conviction and sentence as being legally invalid,
36 and order new proceedings consistent with this section and as permitted under the United
37 States and Oregon Constitutions.

38 (B) Notwithstanding subparagraph (A) of this paragraph, if the court finds that the cir-
39 cumstances upon which the claim is based are as described in subsection (2)(d) of this section
40 only, and the court has the ability to rectify the violation by modifying the judgment, the
41 court shall vacate the conviction and sentence as being legally invalid and modify the judg-
42 ment to impose an appropriate remedy for the violation that occurred. On resentencing, the
43 court may not impose a new sentence that is greater than the sentence previously imposed.

44 (C) If the court finds that only the sentence was sought, obtained or imposed in violation
45 of subsection (1) of this section, the court shall vacate the sentence as being legally invalid

1 and impose a new sentence. On resentencing, the court may not impose a new sentence that
2 is greater than the sentence previously imposed.

3 (8) The remedies available under this section do not foreclose any other remedies avail-
4 able under the United States Constitution, the Oregon Constitution, or any other law.

5 (9) Nothing in this section is intended to prevent or affect the prosecution of bias crime
6 under ORS 166.155 and 166.165.

7 (10) A defendant filing a motion under this section may share a race, ethnicity or na-
8 tional origin with more than one group, and may aggregate data among groups to demon-
9 strate a claim under this section.

10 (11) As used in this section:

11 (a) “More frequently sought or obtained” or “more frequently imposed” means that sta-
12 tistical evidence or aggregate data demonstrate a significant difference in seeking or ob-
13 taining convictions or imposing sentences comparing defendants who have committed similar
14 offenses and are similarly situated, and the prosecution cannot establish race-neutral rea-
15 sons for the disparity.

16 (b) “Prima facie showing” means that the defendant produces facts that, if true, establish
17 that there is a substantial likelihood that a violation of subsection (1) of this section has
18 occurred. For purposes of this paragraph, a “substantial likelihood” requires more than a
19 mere possibility, but less than a standard of preponderance of the evidence.

20 (c) “Racially discriminatory language” means language that, to an objective observer,
21 explicitly or implicitly appeals to racial bias, including but not limited to racially charged or
22 racially coded language, language that compares the defendant to an animal, or language
23 that references the defendant’s physical appearance, race, culture, ethnicity or national ori-
24 gin. Evidence that particular words or images are used exclusively or disproportionately in
25 cases in which the defendant is of a specific race, ethnicity or national origin is relevant to
26 determining whether language is racially discriminatory.

27 **SECTION 3.** (1) Section 2 of this 2025 Act applies to:

28 (a) Any case for which a judgment of conviction has not yet been entered on the effective
29 date of this 2025 Act.

30 (b) Beginning January 1, 2027, any case for which the petitioner has been sentenced to
31 death, or for which the person has actual or potential immigration consequences relating to
32 the conviction or sentence, regardless of when the judgment or disposition became final.

33 (c) Beginning January 1, 2028, any case for which the petitioner is currently serving a
34 sentence in a state or local correctional facility or a youth correction facility, regardless of
35 when the judgment or disposition became final.

36 (d) Beginning January 1, 2029, any felony case in which judgment became final, or any
37 juvenile disposition for an act that, if committed by an adult, would constitute a felony, that
38 became final, on or after January 1, 2019.

39 (e) Beginning January 1, 2030, any felony case or juvenile disposition for an act that, if
40 committed by an adult, would constitute a felony, regardless of when the judgment or dis-
41 position became final.

42 (2) Notwithstanding ORS 138.510, for a person proceeding with a motion under section 3
43 of this 2025 Act by filing a petition for post-conviction relief under ORS 138.510 to 138.680,
44 the person may file the petition within two years after the date specified in subsection (1)
45 of this section.

1 **(3) For petitions filed in cases for which judgment was entered prior to January 1, 2019,**
2 **if the petition is based on circumstances described in section 2 (2)(a) or (b) of this 2025 Act,**
3 **the petitioner is not entitled to relief if the state proves beyond a reasonable doubt that the**
4 **circumstances did not contribute to the conviction.**

5 **SECTION 4.** ORS 419C.270 is amended to read:

6 419C.270. In all proceedings brought under ORS 419C.005, the following rules of criminal pro-
7 cedure apply:

8 (1) ORS 133.402, 133.673, 133.693 and 133.703;

9 (2) ORS 135.455, 135.465 and 135.470;

10 (3) ORS 135.610, 135.630 (3) to (6), 135.640 and 135.670;

11 (4) ORS 135.711, 135.713, 135.715, 135.717, 135.720, 135.725, 135.727, 135.730, 135.733, 135.735,
12 135.737, 135.740 and 135.743;

13 (5) ORS 135.805 and 135.815 (1)(a) to (e) and (g) and (3);

14 (6) ORS 135.825, 135.835, 135.845 and 135.855 to 135.873; [*and*]

15 (7) ORS 136.432[.]; **and**

16 **(8) Section 2 of this 2025 Act.**

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