

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1007**

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

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

4 **“30.657. (1) The Legislative Assembly finds and declares that indi-**
5 **viduals who have been wrongly convicted of crimes and imprisoned in**
6 **this state have been unable to obtain legal redress due to a number**
7 **of substantive and technical obstacles in the law and that these indi-**
8 **viduals should have a timely avenue to obtain compensation and a**
9 **finding of innocence following a wrongful conviction.**

10 **“[(1)] (2)** A person may petition for compensation for wrongful conviction
11 against the state if all of the following requirements are satisfied:

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

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

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

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

20 **“(d)** The person did not commit perjury, fabricate evidence or by the
21 person’s own conduct cause or bring about the conviction. A confession or

1 admission later found to be false or a guilty plea does not constitute com-
2 mitting perjury, fabricating evidence or causing or bringing about the con-
3 viction under this paragraph.

4 “[2)] **(3)** For the purposes of subsection [(1)] **(2)** of this section:

5 “(a) Reversal or vacation of a conviction because the conviction was ob-
6 tained following a finding of guilt by a nonunanimous jury is not sufficient
7 to prove that the person did not commit the crime or crimes for which the
8 person was convicted.

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

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

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

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

21 “**(C) Proof that a nationally recognized registry for those who have**
22 **been exonerated has determined that, following a post-conviction re-**
23 **examination of the evidence in the case, the person was exonerated**
24 **and relieved of all the consequences of the criminal conviction as de-**
25 **scribed in subsection (4) of this section.**

26 “**(4)(a) A nationally recognized registry for those who have been**
27 **exonerated has determined that a person was exonerated and relieved**
28 **of all the consequences of a criminal conviction if the registry has**
29 **determined that the person:**

30 “**(A) Was declared to be factually innocent by a government official**

1 **or agency with the authority to make that declaration; or**

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

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

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

10 **“(b)(A) A pardon, acquittal or dismissal described in paragraph (a)**
11 **of this subsection must have occurred after evidence of innocence be-**
12 **came available that:**

13 **“(i) Was not presented at the trial at which the person was con-**
14 **victed; or**

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

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

19 **“(c) A person who otherwise meets the requirements of this sub-**
20 **section has not been exonerated if there is unexplained physical evi-**
21 **dence of the person’s guilt.**

22 **“[(3)] (5) A person may file a petition for compensation under this section**
23 **in the Circuit Court for Marion County or in the circuit court for the county**
24 **of conviction. The petitioner shall serve the petition on the Attorney Gen-**
25 **eral, who shall represent the state in all proceedings on the petition. The**
26 **petitioner shall also mail a copy of the complaint to the District Attorney**
27 **of the county of conviction.**

28 **“[(4)(a)] (6)(a) A petition under this section is a civil action. The Oregon**
29 **Rules of Civil Procedure and the Oregon Evidence Code apply to a petition**
30 **under this section unless otherwise specified in this section.**

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

8 “(c) The [*fact finder*] **court** in a proceeding under this section may receive
9 proof by declarations, depositions, oral testimony or other competent evi-
10 dence **from any proceeding arising out of the facts or events that re-**
11 **sulted in the petitioner’s conviction, or arising out of the conviction**
12 **itself**, including but not limited to transcripts of testimony or documents and
13 evidence filed with the court [*in any proceeding that gave rise to the con-*
14 *viction, reversal or vacation of the conviction, or from retrial following*
15 *reversal*].

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

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

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

28 “(b) A petitioner is not entitled to damages for any period of incarcer-
29 ation during which the petitioner was concurrently serving a sentence for a
30 conviction of another crime for which the petitioner was lawfully

1 incarcerated.

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

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

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

11 “[~~(7)~~] **(9)** In addition to the damages awarded under subsection [~~(5)~~] **(7)**
12 of this section, the court:

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

16 “(b) Shall award to the petitioner reimbursement for all restitution, as-
17 sessments, fees, court costs and all other sums paid by the petitioner as re-
18 quired by pretrial orders, incarceration, and the judgment and sentence in
19 any proceeding that gave rise to the conviction, reversal or vacation of the
20 conviction, or from retrial following reversal; and

21 “(c) May award to the petitioner **a one-time lump sum payment to be**
22 **calculated at the time of entry of judgment based on evidence pre-**
23 **sented by the petitioner for the costs of:**

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

27 “(B) **Participation by the petitioner in a health benefit plan as de-**
28 **fined in ORS 743B.005 for up to 10 years, calculated using a plan com-**
29 **parison table for individual market plans published by the Department**
30 **of Consumer and Business Services and evidence presented by the**

1 **petitioner; and**

2 “(C) [*Access to*] **Accessing** existing state, local or other programs that
3 provide services, including, but not limited to, counseling, housing assist-
4 ance, [*eligibility for medical assistance as defined in ORS 414.025, educational*
5 *assistance,*] job training, legal services to regain custody of children, assist-
6 ance with food and transportation and personal financial literacy assistance,
7 as appropriate.

8 “[~~(8)~~] **(10)** Beginning in 2023, and every year thereafter, the State Court
9 Administrator shall determine the percentage increase or decrease in the
10 cost of living for the previous calendar year, based on changes in the Con-
11 sumer Price Index for All Urban Consumers, West Region (All Items), as
12 published by the Bureau of Labor Statistics of the United States Department
13 of Labor. On or before July 1 of the year in which the State Court Admin-
14 istrator makes the determination required by this subsection, the State Court
15 Administrator shall adjust the amounts prescribed under subsection [~~(5)~~] **(7)**
16 of this section for the following calendar year by multiplying the amounts
17 applicable to the calendar year in which the adjustment is made by the per-
18 centage amount determined under this subsection. The adjustment may not
19 exceed three percent for any year. The State Court Administrator shall round
20 the adjusted limitation amount to the nearest \$100, but the unrounded
21 amount shall be used to calculate the adjustments to the amounts in subse-
22 quent calendar years. The adjusted amounts become effective on July 1 of the
23 year in which the adjustment is made, and apply to all petitions filed under
24 this section on or after July 1 of that year and before July 1 of the subse-
25 quent year.

26 “[~~(9)(a)~~] **(11)(a)** If, on the date a judgment is entered under subsection
27 [~~(5)~~] **(7)** of this section, the petitioner has won a monetary award against a
28 public body as defined in ORS 174.109 in a separate civil action related to
29 the same subject, or has entered into a settlement agreement with a public
30 body as defined in ORS 174.109 related to the same subject, the amount of

1 economic damages awarded in the separate action or received in the settle-
2 ment agreement, less any sums paid to litigate the other civil action or ob-
3 tain the settlement agreement, including, but not limited to, attorney fees,
4 costs and expert fees, shall be deducted from the sum of money to which the
5 petitioner is entitled under this section. The court shall include in the
6 judgment an award to the state of any amount deducted pursuant to this
7 subsection.

8 “(b) If paragraph (a) of this subsection does not apply and if, after the
9 date the judgment is entered under subsection [(5)] (7) of this section, the
10 petitioner wins a monetary award against a public body as defined in ORS
11 174.109 in a separate civil action related to the same subject, or enters into
12 a settlement agreement with a public body as defined in ORS 174.109 related
13 to the same subject, the petitioner shall reimburse the state for the sum of
14 money paid under the judgment entered under subsection [(5)] (7) of this
15 section, less any sums paid to litigate the other civil action or obtain the
16 settlement agreement, including, but not limited to, attorney fees, costs and
17 expert fees. A reimbursement required under this subsection may not exceed
18 the amount of the economic damages awarded in the separate civil action
19 or received in the settlement agreement.

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

24 “[10] (12) Compensation awarded as a result of a petition for compen-
25 sation for wrongful conviction under this section is excluded from gross in-
26 come and is not subject to taxation.

27 “[11] (13) A petition under this section is not subject to ORS 30.260 to
28 30.300.

29 “[12)(a) *If the petitioner prevails on a petition under this section, the*
30 *petitioner may request that judgment include a certificate of innocence finding*

1 *that the petitioner was innocent of all crimes for which the petitioner was*
2 *wrongfully convicted.]*

3 **“(14)(a) If the court enters a judgment under subsection (7) of this**
4 **section, the court shall include in the judgment a certificate of inno-**
5 **cence stating that the petitioner has established that the petitioner is**
6 **innocent of all crimes for which the petitioner was wrongfully con-**
7 **victed.**

8 “(b) Upon entry of a judgment granting a petition under this section, the
9 court shall order the associated convictions and arrest records be set aside
10 and sealed from all applicable state and federal systems pursuant to this
11 subsection. The court shall enter the set aside order regardless of whether
12 the petitioner has other criminal convictions or pending criminal cases.

13 “[~~(13)~~] **(15)** Notwithstanding ORS 12.115, a petition under this section
14 must be filed no later than two years after:

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

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

18 “[~~(14)~~] **(16)** Any party to a proceeding under this section may appeal from
19 the judgment of the circuit court on a petition filed under this section by
20 filing a notice of appeal within the time and in the manner specified in ORS
21 chapter 19 for civil appeals to the Court of Appeals. Any party filing a notice
22 of appeal under this subsection must note in the notice of appeal that the
23 case is subject to this subsection. For purposes of any appeals under this
24 section, the Attorney General shall represent the state in all appellate pro-
25 ceedings. The party filing the notice of appeal shall serve the notice of ap-
26 peal on the Attorney General and on the district attorney for the county of
27 conviction.

28 “[~~(15)~~] **(17)** This section does not preclude the Department of Corrections
29 from providing reentry services to a petitioner under this section that are
30 provided to other persons, including, but not limited to, financial assistance,

1 housing assistance, mentoring and counseling. Services may be provided
2 while an action is pending and after any judgment is entered, as appropriate
3 for the petitioner.

4 **“SECTION 2. (1) Upon service of a petition filed under ORS 30.657,**
5 **the Attorney General shall begin a review of the claim for compen-**
6 **sation. The review must include consideration of any evidence from**
7 **the petitioner or the district attorney and any newly presented evi-**
8 **dence that tends to satisfy the requirements of ORS 30.657 (2).**

9 **“(2) Within 180 days after the date the Attorney General receives**
10 **service of the petition filed under ORS 30.657, the underlying district**
11 **attorney case file from the county of conviction, all trial, appellate,**
12 **post-conviction and federal habeas court records and any newly pre-**
13 **sented evidence of innocence, the Attorney General shall make a**
14 **written determination whether the evidence, including newly pre-**
15 **sented evidence of innocence, satisfies the requirements of ORS 30.657**
16 **(2). If the Attorney General determines that the requirements are**
17 **satisfied, the Attorney General shall not oppose the petition and shall**
18 **not oppose entry of judgment in the petitioner’s favor awarding the**
19 **relief required by ORS 30.657 (7), (8), (9) and (14).**

20 **“(3) The Attorney General shall submit an annual report in the**
21 **manner provided in ORS 192.245 to an interim committee of the Leg-**
22 **islative Assembly relating to the judiciary. The report must summarize**
23 **the determinations made under this section in the preceding year and**
24 **include the amount of attorney fees incurred in connection with each**
25 **notice and petition filed in the preceding year.**

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

27 **“30.659. (1) A person may not file a petition under ORS 30.657 unless no-**
28 **tice of petition is given as required by this section.**

29 **“(2) Notice of petition shall be given within 180 days after the date on**
30 **which the charges were dismissed, the person was found not guilty on retrial**

1 or the person received a grant of pardon. The period of time shall not in-
2 clude the period, not exceeding 90 days, during which the person is unable
3 to give notice because of injury or **the period during which the person is**
4 **unable to give notice** because of minority, incompetency or other incapac-
5 ity.

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

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

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

10 “(c) Notice of claim under ORS 30.275 for any action against a public
11 body, as defined in ORS 174.109, or any officer, employee or agent of the
12 public body arising out of the facts and circumstances that gave rise to the
13 wrongful conviction; or

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

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

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

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

22 “(c) The name of the claimant and the mailing address to which corre-
23 spondence concerning the petition may be sent.

24 “(5) Notice is sufficient where the communication is such that a reason-
25 able person would conclude that a particular person intends to assert a claim
26 against the state arising out of wrongful conviction.

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

1 “(7) Failure to provide timely notice shall not be a bar to suit if good
2 cause for the failure is shown. Good cause shall not be unreasonably with-
3 held.

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

10 **“SECTION 4. (1) The amendments to ORS 30.657 and 30.659 by**
11 **sections 1 and 3 of this 2025 Act apply to petitions filed under ORS**
12 **30.657 before, on or after the effective date of this 2025 Act for which**
13 **a court has not entered a final judgment before the effective date of**
14 **this 2025 Act.**

15 **“(2) As used in subsection (1) of this section, ‘final judgment’ means**
16 **a judgment, including a judgment of dismissal, that is not subject to**
17 **further appeal or review or for which the time to file an appeal has**
18 **expired without a party filing an appeal.**

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

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

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