

Prior to the 2026 legislative session, Forensic Justice Project engaged and agreed on language suggestions from ODOJ, OJD, the Oregon State Police Crime Lab, **and** ODAA to craft SB 1515A and create a fair and narrow path for individuals to petition to have their cases reviewed if based on specific, discredited forensic methods. We accepted many earlier redline suggestions from district attorneys. The concerns raised by DA Wentworth and Ms. Dalton in the public hearing on SB 1515A on March 2, 2026 were raised and answered in the Senate Judiciary Committee prior to its unanimous 6-0 vote out of committee (and ultimate 28-1 vote off the Senate floor). We'd like to take an opportunity to address those concerns again for the record:

A5 amendment:

Forensic Justice Project and the national Innocence Project firmly believe this additional language is not needed for the reasons outlined below and would ultimately create more confusion for petitioners and the courts.

ODAA stated that their reason for the A5 Amendment was because, while bite-mark analysis is no longer a utilized science, in some circumstances a Medical Examiner might identify an injury as a likely bite mark and use that diagnosis as a reason for further scientifically-valid testing (swabbing for DNA, for example). This concern was raised on the Senate side.

To be clear, the scenario that ODAA mentioned is outside the scope of this bill, which is only about post-conviction matters. SB 1515A does **not** change the rules of evidence of what can and cannot be admitted as testimony at trial. It does **not** prohibit or hinder a Medical Examiner from identifying a likely bite mark and requesting scientifically valid DNA testing on that mark. SB 1515A lays out certain, limited conditions for which a person can file a petition for post conviction relief to have a court review their case based on discredited forensic evidence until January 2031.

After passage of the bill, a Medical Examiner can still:

- Identify (or could have identified previously) a mark on the body as a likely bite mark, swab the area, and then send that swab to the lab for DNA testing. The lab reports the results of the DNA test, and it is that evidence (the DNA result) that can be admitted at trial and forms the basis for conviction.
- Testify that they identified a bite mark or an area to be swabbed for DNA. A lab analyst can also testify to the DNA result. SB 1515A specifically exempts identifications "based on DNA analysis."

Furthermore, SB 1515A also does nothing to affect or hinder testimony by non-experts or lay persons. Cases where a lay person testified that a bite mark was caused by a person would

NOT be grounds for post conviction relief. SB 1515A will not prevent any of these types of identification or testimony.

What SB 1515A does is lay out certain, limited conditions for which a person can file a petition for post conviction relief to have a court review their case, including when **an expert** goes beyond scientifically valid testimony and, instead, testifies to a discredited opinion about that a bite mark **is a human bite mark**, and whether it can be matched to a particular individual. That is because the [2009 National Academy of Sciences \(NAS\) report](#), [2016 President's Council of Advisors on Science and Technology \(PCAST\) report](#), [2023 National Institute of Standards and Technology \(NIST\) report](#) and leading authorities agree that dentists get that wrong. Notably, as of 2016, the American Board of Forensic Odontology (ABFO) no longer permits its analysts to issue conclusions of "exact match" or that a perpetrator made a mark without a doubt often because we have no reliable way of determining the difference between a human bite mark and other injuries (like animal bite mark). There are high profile cases where an expert identified a mark as being made by a human and it was actually made by animals (see: exoneration of [Kennedy Brewer](#) who was exonerated from death row when DNA tests pointed to the true culprit after initial testimony at his original trial stated that the marks found on the victim's body were "indeed and without a doubt" inflicted by Mr. Brewer).

How the bill works:

1. A person convicted of a crime has two years from the effective date of SB 1515A to file a petition for post-conviction relief if their conviction was based in whole or in part on scientific expert testimony, evidence, or opinion about a discredited forensic science discipline – hair microscopy, bite mark analysis or comparison, and comparative bullet lead analysis.
2. If the Court finds that the person's case does not have merit or they are ineligible, the petition can be dismissed.
3. Otherwise, the Court can hold proceedings. The Court would only grant relief if the petitioner proves that (1) their conviction was based substantially on the expert testimony, evidence, or opinion of one of the three discredited disciplines AND (2) the outcome would have been different if that testimony was not admitted.

If an expert testifies (or testified) a bite mark is a human bite mark -- a discredited science -- then the convicted person can file a petition to have court review their case until January 2031 and the court would determine if the conviction was based substantially on that testimony and if the outcome would have been different if that testimony was not admitted, **or** if other "corroborating" evidence would have still resulted in the same outcome.

We are concerned that the amendment is not only superfluous, but will cause confusion for potential petitioners and the courts of who can file because "corroborating evidence" is not defined and should be for the court to decide upon review.

The claim that individuals who plead guilty should be excluded from SB 1515A:

- According to the National Registry of Exonerations, **in nearly 1 in 4 of all known exonerations, the innocent person plead guilty**, and notably, 95% of all felony cases are resolved by a plea. There is abundant evidence of innocent individuals who accepted a guilty plea because the risk of trial and threat of harsher punishment was too great. That phenomenon is even more pronounced in cases in which the government's evidence had the patina of science. It is well recognized by the Oregon Supreme Court that "evidence perceived by lay jurors to be scientific in nature possesses an unusually high degree of persuasive power," *State v. O'Key*, 321 Or 285, 291 (1995), which naturally factors into the decision of whether to accept a plea when the government presents what jurors may believe to be irrefutable evidence, even when it is not. **None of the seven states with this type of post-conviction review prohibit individuals who plead guilty from applying for relief.** It's important to note that no one will be released from prison the day SB 1515A takes effect. The bill simply creates a fair and narrowly tailored process in which the court would review eligible cases and only grant relief if the petitioner met the legal standard outlined.

The claim that Oregon already has pathways to post conviction relief:

- It was falsely noted that there are existing pathways for post conviction relief for these types of cases. This is incorrect. There is not a pathway for someone to have their conviction reviewed if it was based on underlying faulty forensic evidence. In Oregon, post conviction relief exists for violations of constitutional rights such as ineffective assistance of counsel or official misconduct, and new DNA evidence. In the cases that SB 1515A aims to address, counsel (defense or district attorneys) did nothing wrong – the science has just been discredited after the conviction and new DNA evidence does not exist. Further, it can take years – often decades – for our scientific understanding to evolve and innocent Oregonians are denied the opportunity to return to court due to procedural bars and strict time bars that have expired. **FJP, for one, has these clients and they can't testify in a public hearing because they are in prison.** Without SB 1515A, innocent Oregonians do not have a legal pathway to challenge their wrongful conviction and will remain behind bars.