

Bill could vacate some convictions

By ALEX WITTWER
EO Media Group

SALEM — Legislators are pushing through a broad reform bill that would retroactively allow criminals to appeal their case if the verdict wasn't reached unanimously.

Senate Bill 1511, which would allow those previously convicted of crimes with a less-than-unanimous jury to appeal their decision, is based on the recent Ramos vs. Louisiana Supreme Court ruling that found that non-unanimous juries were unconstitutional.

Oregon and Louisiana were the only two states in the nation to allow non-unanimous juries. The Oregon law was put into effect in 1934 and had racist and xenophobic origins, according to numerous people who testified for SB1511.

The Supreme Court of the United States denied the retroactivity clause by a 6-3 ruling on May 17, 2021, in the case of Edwards vs. Warden Van-noy, with Justice Brett Kavanaugh writing the majority opinion. However, Kavanaugh also wrote that the states could make their own retroactivity laws, which is what Oregon aims to do with SB 1511.

Baker County District Attorney Greg Baxter said the law allowing non-unanimous juries was followed at the time of those previous convictions, and it's hard to say whether or not those non-unanimous juries would have pushed for a unanimous verdict if the laws were different in the past.

"No one can say what the juries would have done if they had been required to be unanimous," Baxter stated in an email. "No one knows if the jury would have worked just a little harder and longer to obtain a unanimous verdict. It is likely that once the required unanimity was obtained, they stopped."

The broadness of the bill is beset by its relative succinctness — only about a single page of amendments to existing law would take the bill far beyond the Supreme Court's ruling. And it's happening during an Oregon legislative session that will only last 35 days.

"I feel it's been rushed. We're in the short session. This is supposed to be certain matters, fiscal aspects, things like that," said Justin Nelson, district attorney for Morrow County, "and this is a very complicated and, possibly, very costly bill that goes far beyond what the Supreme Court said needed to be done. Is that something we need to be doing for the short session? Is this something we push through in 35 days?"

The Oregon District Attorney Association raised numerous issues with the bill, including what would happen for verdicts that included multiple charges.

"Let's say you have a 10-count case," Nelson said. "And the person's found guilty of all counts. Maybe count one is rape in the first degree, and then count 10 is false information to a police officer — a misdemeanor of some sort — and ends up being a non-unanimous verdict. The concern I have is that it actually overturns the entire judgment, not just that count."

Other issues the ODAA raised include how the court would determine whether a jury was unanimous or not, given that

jury polling and records of jury polls were not well tracked, and beyond any trial record, according to the ODAA's testimony.

The testimony also considers the possibility that the new law could be used in conjunction with the 6th Amendment to dismiss a conviction due to an untimely trial.

Foremost, the ODAA raised an issue with the cost of the legislation, which provides no resources for victim assistance programs for resulting trauma from having a decided case returned to trial.

"Oregon's victims of some of the most serious crimes we see are going to be facing new trauma as thousands of cases are returned and potentially re-litigated," testified Rosemary W. Brewer, executive director of Oregon Crime Victims Law Center. "Yet as drafted, SB 1511 has no provisions for increased victim services. There is going to be an enormous need for trauma-informed services, and we must ensure that victims have easy access to these services as they learn that a part of their lives they considered to be closed is reopened."

The OCVLC testimony also noted the bill does not provide any notification for victims of crimes, or allow for their participation in the justice system.

"It is unfortunately all too common that victims' voices are left out of the criminal justice process. Without specific provisions for victim notification and participation," the testimony continued, "SB 1511 unwinds the progress that has been made in acknowledging the critical role victims play and in Oregon's commitment to ensuring victims are treated with the dignity and respect that the Constitution demands."

Aliza Kaplan, professor and director of the Criminal Justice Reform Clinic at Lewis & Clark Law School, testified in support of SB1511 and cited statistics that show that the non-unanimous jury law had a disproportionate impact on communities of color.

The Lewis & Clark Law School testimony also showed that, of the 244 cases that raised Ramos concerns, only six originate from Eastern Oregon — all of which are in Umatilla County. However, these are simply the number of cases with issues raised about the constitutionality of a non-unanimous jury — cases where the issue of non-unanimous juries never was raised at court likely would exist, and there is no way of knowing how many such cases would be brought to court once again.

"Due to the spread of underlying convictions across Oregon counties, mostly clustered in Oregon's most populous counties with the largest district attorney offices, we do not believe district attorneys would be severely overwhelmed by the proposed remands," Kaplan testified.

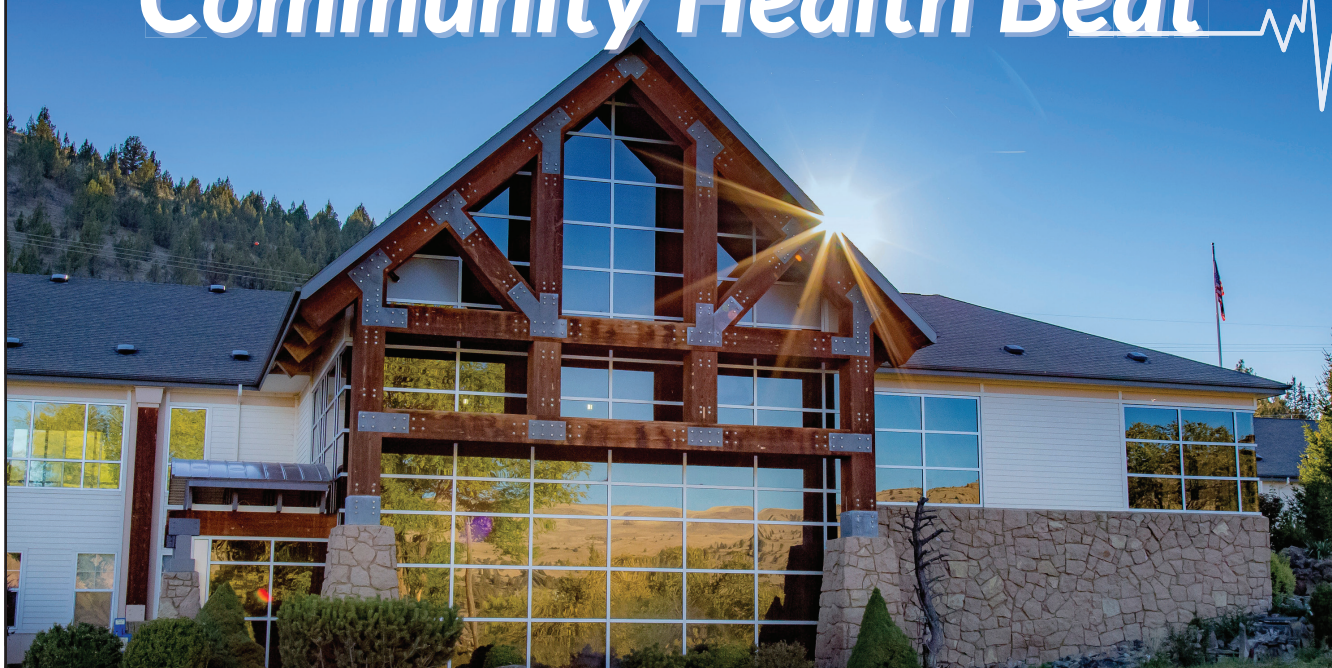
The 2022 legislative session runs from Feb. 1 to March 8.

"The new parts are one page on this bill. The amount of change that it will do our judicial system is staggering. The cost that it could be is staggering," Nelson said. "Rushing this through a special session — something like this that is one page — could have a dire effect on victims, and I'm not sure that's what we want to go forward with."



Blue Mountain Hospital District

Community Health Beat



What's new at BMHD? March is Colorectal Cancer Awareness Month



More than 140,000 Americans are diagnosed with Colorectal Cancer each year. It is the 2nd leading cause of cancer death and affects both men and women. If detected early, it is entirely treatable.

One sure way to reduce your risk of colon cancer is to GET SCREENED!
Contact your Primary Care Provider for a referral and get your appointment scheduled today!



In February BMHD was recognized as one of the top 100 Critical Access Hospitals in the nation by the Chartis Center for Rural Health.

BMHD is 1 of 3 Oregon Critical Access Hospitals to make the top 100 list.

A huge thank you to our staff, board of directors, volunteers, and most importantly, our patients. We are so grateful to serve you, care for you and your loved ones, and be a part of this wonderful community!

To read more about this award, visit our website!

Scholarship Applications Open

Grant County graduating seniors looking to pursue a career in healthcare: visit our website to download our scholarship application.
Submission deadline: May 13th.

FREE At-Home Testing Kits

Free at-home COVID-19 testing kits are available for pickup Monday - Friday from 10am - 12pm and 2pm - 4pm. Please call (541) 575-1487 to schedule a pickup.

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John Day Golf Club

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