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**Testimony of Shawn Wiley, Chief Deputy Defender
Supporting SB 44A
House Judiciary Committee
April 22, 2013**

Chair Barker and Members of the Committee:

Thank you for the opportunity to provide information in support of Senate Bill 44A. The bill is a procedural fix to a problem that has plagued the Court of Appeals and our office for several years: the determination of when the deadline for filing an amended notice of appeal runs.

If a person is convicted of a crime, the court issues a judgment that sets out the conviction and the sentence the person received. Often, the person will decide to appeal, which requires the person's attorney to file a notice of appeal in the appellate courts.

Occasionally, someone at the trial level will notice a mistake in the judgment – a small item of sentencing was omitted, like a fine, or the written judgment didn't match the judge's pronouncement of sentence at the hearing, etc. The trial judge then issues a corrected or supplemental judgment. If the defendant wants to appeal from the changes made by the new judgment, the defendant must file an amended notice of appeal. The problem is that due to limited funding and resources, the new judgments are often not forwarded to the appellate courts or to the appellate lawyer for the defendant. The result is that frequently no one on appeal has any idea that a new judgment in the case has been issued. Often the deadline for filing an amended notice of appeal has run. In addition, the situation creates headaches for the Court of Appeals, which must now figure out when the amended notice of appeal was due.

Our office tried to address some of these problems in 2007 with a bill that set the deadline for filing the amended notice of appeal from the day defendant receives notice of the new judgment, but the Supreme Court recently interpreted that statute in a manner that did not solve the problem. So we are asking the legislature to amend ORS 138.071 to specify that the amended notice of appeal is due 30 days from when the defendant's appellate lawyer receives notice of the new judgment.

Our office worked with the Judicial Department to come up with language that met everyone's needs, resulting in the current version of Senate Bill 44A.

I urge passage of Senate Bill 44A. Thank you for your consideration. Please feel free to contact me with any questions or concerns that you may have.