



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: February 5, 2015

TO: Honorable Jeff Barker, Chair
House Committee on Judiciary

FROM: Cheryl Hiemstra, Assistant Attorney General

SUBJECT: HB2380 – Joint Motions for Post Conviction Relief Appeals

This testimony is presented in support of HB2380.

BACKGROUND

Since 1995, ORS 138.227 has allowed joint motions to vacate a judgment and remand in criminal appeals where both sides agree. This provision is used only in those cases where a judgment contains an obvious error which is agreed upon by each party. HB3278 (2013) extended the allowance of joint remands to the juvenile system. In the absence of a joint remand, a case must be formally appealed, which requires a briefing by both parties, assignment to a judicial panel, and a formal concession of error. This uses scarce judicial resources. While now corrected for the adult and juvenile systems, post-conviction relief (PCR) cases still lack this cost saving mechanism.

CONCEPT

This bill follows in the footsteps of this legislation in allowing the remand and correction of a facially deficient order in a post-conviction case upon a joint motion of both parties. As a safety valve, it allows either party to appeal from the original judgment or order if necessary.

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