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PUBLIC DEFENDER

February 23, 2026

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Senate Committee on the Judiciary

RE: HB 4041 (How credit for time served is applied to sentences)

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Chairman and members of the committee, my name is Amy Young. Thank you for the opportunity to address you about my opposition to HB 4041-specifically the CTS and DOC recapture parts of the bill.

I practice in Medford and have been an attorney for 32 years, mostly criminal defense.

The case of Michael McEwen is the best example for my opposition to HB 4041. He was a first-time offender. Drug addiction fueled the two cases I represented him on.

His sentences were carefully constructed by myself, the judge and the prosecutor during what we call a judicial settlement conference. Our primary goal was to structure his sentences so he could have the best chance at participating in the prison drug treatment program known as AIP.

In Mr. McEwen's judgments, we cited ORS 137.370(4), because it has the specific language The Department of Corrections (DOC) required in order for an inmate to receive CTS. In Jackson county, there was a *consensus* to include that language in judgments to ensure that inmates received their CTS. That language has been available since 2015. It is not a surprise nor a new issue. If the statute is changed now, there will only be MORE litigation over what parties meant when they settled cases.

The DOC's recalculation of release dates for inmates was a result of the *Torres-Lopez* litigation. Mr. McEwen was one of those inmates. Under that recalculation, Mr. McEwen actually did approximately 6 more months than he should have! He was forcibly released from prison while he was successfully participating in AIP. DOC released him on July 30, 2025. Mr. McEwen did well after his release from prison. He married, became a father and got a job. He was in recovery. Despite that, he was arrested in December of 2025. DOC had him labelled an "escapee," which meant he was in lockdown at an Idaho jail waiting for extradition. Idaho did not provide him with appropriate medical care and he suffered often life-threatening withdrawals from suboxcin. The Oregon Supreme Court ruled that the Department of Corrections arrests post *Torres-Lopez* were illegal but DOC did not release Mr. McEwen.

The DA filed multiple motions with varying and often contradictory arguments to change Mr. McEwen's judgments in an effort to legitimize their illegal, cruel and unjust detention of Mr. McEwen. The DA claimed that the CTS we specifically put in the judgment was first a scrivener's error, then an erroneous error and ambiguous. They lost. Still, DOC did not release Mr. McEwen. We had to file a writ of habeus corpus to make DOC follow the law. Finally, Mr. McEwen is free.

Now they want to change the statutes themselves, over two years after his negotiated agreement. Two years after the judgment was entered in his cases. Two years after Mr. McEwen took responsibility for his crimes and reformed his life.

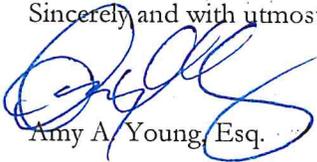
Where is *their* accountability?! Are they taking responsibility for *their* failure to follow the law? The house committee heard heartbreaking testimony from at least one victim that was not notified that her abuser was released from prison. Both DOC and prosecutors have notified victims of the release of their abusers for decades. They did not do that for the *Torres-Lopez* cases. Instead, they instituted more litigation to shift blame from their lack of attention to written judgments. They did not do their job and now blame the *Torres-Lopez* litigation. They arrested people illegally after the *Torres-Lopez* case and now blame the law. They are still not adhering to the Oregon Supreme Court's now multiple rulings. How do I honestly look my clients in the face and ask them to take responsibility when those in power do not?

If these statutes are changed, there will be a tidal wave of new litigation, it will go on for years. New trials will be requested, ineffective assistance of counsel claims will be filed-particularly since defense attorneys relied upon the law that you are suggesting we change. It will go on and on.

Defendants were promised something and the state did not live up to its share of the bargain. Families of victims and defendants alike will suffer. There won't be closure for any of them to move on and make something of their lives. With the Oregon Supreme Court's recent opinions, the law is VERY clear and no adjustments need to be made.

What is most horrifying is that these new proposals are intended to be retroactive. That means they could arrest Mr. McEwen again, after he has already become a productive member of society. We should be doing better to support people who have turned their lives around and are contributing to society. Mr. McEwen was already unfairly treated and could face even more unjust treatment. Because he was released during his drug treatment program, he won't be able to pick up where he was, thus INCREASING his sentence due to no fault of his. Please do not allow this injustice to occur.

Sincerely and with utmost respect,

A handwritten signature in blue ink, appearing to read "Amy A. Young", is written over the typed name.

Amy A. Young, Esq.

Southern Oregon Public Defender, Inc.