DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

MEMORANDUM

DATE: May 1, 2013

TO: Honorable Floyd Prozanski, Chair
             Senate Judiciary Committee, Members

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 3278

RECOMMENDED ACTION

This testimony is presented in support of HB 3278. We recommend that the Committee approve HB 3278 with a do pass recommendation.

BACKGROUND ON VACATION OF JUDGMENTS AND REMAND

ORS 138.227 allows parties to a criminal appeal to jointly move for an order vacating a judgment and remanding the case to the trial court to reconsider the judgment. That statute is intended to provide a cost-effective and efficient mechanism to correct an obvious error in a judgment being appealed. No similar provision exists in the Juvenile Code. Even when a judgment is obviously erroneous, the state must file a brief conceding the error, and the appellate court must issue an opinion accepting the concession and reversing the judgment. This process creates unnecessary costs for the parties and the court, and delays disposition of these appeals.

HOW HB 3278 WILL EXPEDITE CERTAIN APPEALS AND CONSERVE JUDICIAL RESOURCES

- If a party to a juvenile case appeals from a judgment that contains an obvious error (for example, a failure to include statutorily required findings on the face of the judgment), the parties may join in a motion to vacate the judgment and remand the case to the juvenile court to correct the error.
- In juvenile dependency cases, this bill will foster the goal of achieving permanency for children in foster care. Errors in judgments can be corrected more quickly, enabling the juvenile court to move forward with case planning.

- This bill will conserve the resources of the court because it will not be necessary for the court to process a brief conceding error, review the record, and issue an opinion accepting the concession.

THERE IS NO KNOWN FISCAL IMPACT FOR DEPARTMENT OF JUSTICE

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