

**Testimony before the Senate Judiciary Committee  
in support of HB 2324  
On behalf of the  
Oregon State Bar Appellate Practice Section  
March 7, 2023**

Chair Prozanski and Members of the Committee:

My name is Nadia Dahab. I am an attorney in Portland, Oregon. I am here today as a representative of the Oregon State Bar's Appellate Practice Section. The Appellate Practice Section is made up of over 300 attorneys from all parts of Oregon, who represent clients in all types of matters in the Oregon Supreme Court and the Oregon Court of Appeals.

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 15,000 active members. The OSB serves the public interest by: regulating the legal profession and improving the quality of legal services; supporting the judiciary and improving the administration of justice; and advancing a fair, inclusive and accessible justice system.

**House Bill 2324**

House Bill 2324 updates ORS Chapter 19 to update the requirements regarding filing a notice of appeal consistent with a recent Oregon Supreme Court ruling. Currently, ORS 19.260, requires appellants to use registered or certified mail to satisfy the proof of mailing requirements. However, in a 2020 case, *State v Chapman* (367 Or 388 (2022)), the Oregon Supreme Court found that the use of first-class mail through the U.S. Postal Service could satisfy the proof of mailing requirement in the statute and that registered or certified mail was not necessary. At the oral argument in the Chapman case, however, members of the Supreme Court expressed concern for the logistical challenges that such a rule might present for the Court of Appeals and the Appellate Commissioner. In order to bring the statutory language in line with the Supreme Court's decision, and to provide a clear rule that the Appellate Commissioner may use to determine the timeliness of an appeal, HB 2324 would update the statutory language to clarify the class of delivery and proof of service requirements.

Updating the statute in light of the decision in *State v. Chapman* will provide clear statutory guidance on the necessary steps to file with the Oregon Court of Appeals and the Oregon Supreme Court. There are some advantages to allowing first-class mail, as opposed to certified mail, including that it is more affordable and accessible to pro se litigants.

Both appellate courts expressed concerns, however, regarding how to calculate the date the notice was filed when sent by first class mail. This bill clarifies that first-class mail may be used, and that if it is used the postmarked date on the envelope will serve as the date on which notice was provided. This will alleviate the need for the OJD to come up with a new process for independently tracking dates on which mail filings are derived by the postal service.

Thank you for your consideration of HB 2324. I am happy to answer any questions.

*(Please note: This testimony was previously submitted for the public hearing on February 23<sup>rd</sup>, which was cancelled to do inclement weather.)*