

March 4, 2026

Re: Letter of Support for 26-H 7198, The “364 Day Bill”

Dear House Judiciary Committee Members:

As attorneys who represent immigrants in the state of Rhode Island, we are writing to urge the passage of 26-H 7198, a bill that would reduce the maximum prison sentence for a misdemeanor in Rhode Island from one year to 364 days. This bill does not change what crimes are classified as misdemeanors or felonies. This bill does not impact a prosecutor’s ability or discretion to charge defendants with crimes in Rhode Island. And this bill does not impact a judge’s ability or discretion to sentence a defendant once convicted. The one and only thing this bill does is reduce the maximum possible sentence for a misdemeanor by a single day – a change that has essentially no impact on law enforcement in Rhode Island.

Under federal immigration law, however, certain types of criminal convictions (state or federal) that are punishable by a year or more in prison can make any non-citizen subject to detention and deportation. The term “misdemeanor” is not used in the Immigration & Nationality Act; rather the benchmark is the maximum term of imprisonment allowed for the crime. Thus, even if the crime is relatively minor, even if the crime is non-violent, and even when the individual never served a day in prison or had any jail time as part of their sentence, they may be at risk of deportation without the possibility of a waiver.

We are aware of the Rhode Island Attorney General’s continued resistance to this bill, because some misdemeanors in Rhode Island raise public safety concerns, such as simple assault domestic, driving under the influence, or gun possession, and therefore individuals convicted of those crimes should perhaps not be afforded the “benefits” of this legislation. The suggestion, however, that this bill would allow individuals convicted of these misdemeanors to escape immigration consequence or review, is misguided.

An immigrant’s criminal history is always available and subject to scrutiny by immigration officials, both during and after any application process. Furthermore, nearly every adjudication process involves an element of discretion, wherein the risk an individual may pose to public safety is the primary consideration. Moreover, convictions for domestic violence and gun and drug offenses are covered under separate federal immigration statutes that make those convictions deportable offenses without regard to any potential sentence in the criminal statutes. The only benefit this bill affords is to prevent the automatic triggering of deportability for certain Rhode Island misdemeanor convictions.

The most common example is shoplifting, which is a misdemeanor under Rhode Island law, and therefore, is punishable by up to one year in prison. It is a non-violent crime, and most people convicted of shoplifting in Rhode Island do not receive any jail time, and instead pay a fine. But under federal immigration law, crimes of theft, including shoplifting, are categorized as crimes “involving moral turpitude.” Therefore, a Rhode Island conviction for shoplifting can have the additional and disproportionate consequence of deportation – which results in permanent separation from children and family, loss of job, loss of home, and loss of community.

Immigrants should not be punished more harshly than others, and yet we are seeing this every day carried out by the current administration. This one-day change in sentencing laws would protect innumerable immigrant Rhode Islanders from the cruel and disproportionate consequences of misdemeanor convictions. It will also provide relief and protection to refugees, asylum seekers,

domestic violence survivors and many others who are sometimes caught up in the criminal justice system for minor offenses.

This bill will also promote judicial economy by facilitating plea offers to immigrant defendants that do not carry with them such severe immigration consequences.

We respectfully urge you to pass this bill and allow Rhode Island to join more than a dozen other states that already define a misdemeanor to carry a maximum sentence of less than one year.

Sincerely,

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cc: The Hon. Joseph Shekarchi, Speaker of the House  
Nicole McCarty