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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 8063

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES—SEXUAL ASSAULT

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **strongly opposes** House Bill 8063, which requires that every negotiated plea settlement in a first-degree sexual assault or child molestation case be approved by the victim. We recognize that this bill is well-intentioned, but, as attorneys who negotiate these types of settlements every day, we can say, without fear of hyperbole, that this bill would grind the wheels of justice to a halt and would severely disrupt the abilities of prosecutors, defense attorneys, and judges to settle cases in an equitable and consistent manner.

We agree that these are some of the most serious and difficult cases on the criminal calendar. But there are about as many permutations of these offenses as there are individual victims and defendants, and our experience has proven—time and time again—that judicial flexibility in sentencing is the best way to ensure that each case is settled in the fairest way possible. Allowing a victim to hold veto power over a judicially-approved settlement would completely upend the process and would ensure that fewer of these cases are settled, even when a defendant is willing to admit to some of the charges.

Judicially-approved plea settlements are almost always the fairest resolution to a case; they not only allow both parties to avoid the risks inherent to a trial, but they prevent victims and witnesses from undergoing the fiery crucible of cross-examination. Judges, after all, are the experts in these matters, and they are in the best position to weigh the relative strengths and weaknesses of a given case. Allowing a non-party witness—which is what a victim is—to single-handedly determine the fate of a proposed settlement is unheard of in the legal system, and for good reason: these individuals simply are too close to the case to be able to rationally weigh the appropriateness of the agreement.

The simple truth is that no victim can view their own case through unbiased eyes. It is understandable why an individual person would disapprove of an otherwise appropriate and equitable settlement: they may not have the requisite familiarity with the criminal justice system to know how similarly situated cases have been disposed, they may not understand what evidence may or may not be admissible at a trial, or they may simply be unable to separate their own emotions from the facts. It is why doctors are not allowed to operate on their own children, or why

it is often said that “a lawyer who represents himself has a fool for a client”—there is such a thing as being *too close* to a case to adequately assess it. Simply put, H8063 would unquestionably contribute to a much less just and efficient legal system, and we strongly encourage the Committee to reject its passage.

Sincerely,

/s/ Angela M. Yingling

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Legislative Liaison

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