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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 8502

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES -- CRIMINAL OFFENSES -- VICTIM PROXIMITY PROTECTION ACT

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **strongly opposes** House Bill No. 8502, which would severely limit the housing opportunities for those convicted of registerable offenses. We understand that the intent behind this bill is to protect victims, but we are seriously concerned about the housing crisis that it could cause. No one is protected if those on the sex offender registry cannot find stable housing and are forced into homelessness.

We have several serious concerns with this bill. For the sake of brevity, we will outline them succinctly below:

1. **Constitutional vagueness concerns:** While the bill tries to address the issue raised in the federal case of *Chapdelaine v. Neronha*, 662 F.Supp.3d 167 (D.R.I. 2023)—where the U.S. District Court struck down another state sex offender residency statute on vagueness grounds—by defining the distance as being “measured from the nearest boundary line of the real property supporting the residence of the offender to the nearest boundary line of the real property that supports or upon which there exists the victim’s residence, workplace or school.” But, as the Court queried in *Chapdelaine*, how do we determine where that property line is in terms of multi-dwelling units? *Id.* at 175-76? In the case of an apartment, does the property line start at the person’s individual property, or are common spaces included? One does not “reside” in the common parking area, but is it considered part of the property? What if it is across the street from the physical apartment? If one owns half of a duplex, does the other half count? One cannot go into the other person’s living space without permission, so it would be difficult to say one “resides” there, but one could also argue that the “property on which the defendant resides” could be referring to the property in the aggregate. This is just one of the practical considerations raised in *Chapdelaine* that H8502 does not address.
2. **Policy Concerns:** As noted above, this bill does not just affect those on the registry; it affects the entire population, who would have to deal with the fallout of the ensuing housing crisis. This bill is extremely broad: it would not only prevent Level 2 offenders from

residing within 1000 feet from a victim's home, but their work and school as well. Even more concerningly, it would prevent Level 3 offenders from living within a mile of these same places and would let the courts increase that distance to three miles for all Level 2 and 3 offenders. From our research, this bill would put Rhode Island seriously out of step with our sister states; while many states have some restrictions about where an offender can live, only seven other states have victim-based residency requirements, and most are much more narrowly drawn than H8502 is.¹ In addition, all of the states that have such requirements are much, much bigger and more sprawling than Rhode Island, which is the second most densely populated state in the country.

3. Constitutional Due Process Concerns: In addition, we have serious constitutional concerns about the provision (§ 11-37.4-6) that would allow a single probation or parole officer to dictate whether a person can live at a specific address. Notably, there is no objective criteria or opportunity to appeal a denial under this subsection, which raises legitimate due process concerns. According to our research, the (few) states that have a similar provision have much more robust due process protections in place, like a rubric for approval and the opportunity for court review.

This bill would vault Rhode Island far out of the norm for this type of residency regulation and place us into murky constitutional waters; accordingly, the OPD strongly suggests that the Committee reject this bill.

Sincerely,

/s/ Angela M. Yingling

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¹ See Ala. Code § 15-20A-11(b); Ariz. Rev. Stat. § 13-3727; 720 ILCS 5/11-9.3(b-15); Ind. Code § 35-42-4-11; La. Rev. Stat. § 14:91.9; Okla. Stat. tit. 57, § 590(A); Tenn. Code § 40-39-211(b)(1).