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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

Senate Bill No. 2047

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

Chairman LaMountain and Members of the Senate Judiciary Committee:

The Office of the Public Defender strongly **supports** S2047, a bill that redefines the terms “misdemeanor” and “felony” in Rhode Island in ways that will ensure more equitable sentencing and promote judicial economy.

First, the bill changes the misdemeanor maximum prison sentence from 365 days to 364 days and redefines the term “one year” to mean “364 days” in all statutes that discuss a maximum sentence for imprisonment. This change would correct the disparate consequences that legal permanent residents and citizens face under the current sentencing scheme. As it stands now, a single conviction of certain minor offenses triggers unduly harsh federal immigration consequences for legal permanent residents only.

For example, because the crime of shoplifting currently carries the potential of a 365-day prison sentence, a noncitizen convicted of stealing a simple loaf of bread—such as Jean Valjean, the indigent protagonist in *Les Miserables*—would be deportable under federal law, regardless of the actual sentence imposed. If the maximum prison sentence is changed by one day, a single conviction of that offense would no longer trigger deportation proceedings. Thus, both legal permanent residents and citizens would face similar consequences for a single non-violent and minor offense.

Fear not: the proposed change in the law would not shield those who commit certain other types of offenses—such as crimes of domestic violence—from federal immigration consequences. Additionally, convictions for crimes of moral turpitude, multiple misdemeanors, and single felonies will continue to trigger immigration consequences under federal law. This change would shield only the most non-violent and minimally justice-involved individuals, while continuing to allow more serious offenders to face appropriate deportation proceedings.

In addition, we, as public defenders, know first-hand that this change could streamline the plea negotiation process for prosecutors, defense attorneys, and judges alike. Under the current definition of misdemeanor, a noncitizen cannot plead to an offense such as shoplifting without

fearing deportation. This results in protracted negotiations and ultimately a trial calendar clogged with cases that could have otherwise pled out.

Finally, by defining those crimes which are punishable by a fine only—which are, by nature, much less serious offenses—as misdemeanors, petty misdemeanors, or violations, this bill protects Rhode Islanders from the many collateral consequences that accompany the label of “convicted felon.”

Accordingly, the Office of the Public Defender fully **supports** the passage of S2047 as a positive step toward achieving greater fairness in our state’s legal framework.

Sincerely,
/s/ Angela M. Yingling
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