

OFFICE OF THE PUBLIC DEFENDER

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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

Senate Bill No. 2290

ENTITLED, ACTS RELATING TO CRIMINAL PROCEDURE—BAIL AND RECOGNIZANCE

Chairman LaMountain and Members of the Senate Judiciary Committee:

While the Office of the Public Defender acknowledges the intention behind S2290 is to alleviate the financial burdens associated with pretrial release, we have concerns that certain provisions of the proposed bill may inadvertently yield the opposite effect.

Presently, our legal framework requires that, with respect to misdemeanors and non-capital felony offenses, “[a] person charged with any crime *shall* be released on his/her personal recognizance unless such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person, property or the community.” R.I. R. Bail Guidelines 2023 (emphasis added).¹

This language reflects the fundamental belief that pretrial release should be the norm, barring compelling evidence suggesting that the defendant is a flight risk or threat to public safety. Of particular concern is the proposed exception for domestic misdemeanor offenses; after all, defendants are presumed innocent in these cases as well. This carve-out, in essence, undermines established guidelines and implies a predisposition towards monetary bail in such cases. Our bail guidelines make clear that “[m]onetary bail shall only be set when it is found that no other conditions will reasonably assure the defendant’s appearance in court or adequately protect the community.”² **The proposed amendment therefore amounts to a marked departure from our current guidelines and risks more people being detailed pretrial—which is not the bill’s intended purpose.**

Moreover, the bill can be read to endorse a presumption of monetary bail for felony charges—a scenario that raises red flags for our office. The current model sets forth a presumption of personal recognizance, save for circumstances evidencing flight risk or danger to the community. Introducing a presumption of monetary bail for felony charges would disrupt the carefully crafted system endorsed by the Supreme Court. In light of these concerns, our office suggests that this bill

¹ The Rhode Island Bail Guidelines were promulgated by the Rhode Island Supreme Court pursuant to the powers conferred upon the Court by § 8-1-2.

² *Id.*

be amended before passage and remains committed to collaborating with the Committee and the bill's sponsors to craft legislation that reflects our collective commitment to equity and justice.

Sincerely,



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