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April 1, 2025

TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

Senate Bill No. 822

**ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES -- THEFT,
EMBEZZLEMENT, FALSE PRETENSES, AND MISAPPROPRIATION**

Chairman LaMountain and Members of the Senate Judiciary Committee:

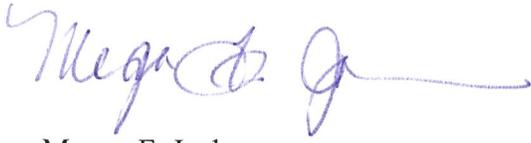
The Office of the Public Defender opposes SB822, which would create a felony charge punishable by up to five years in prison for associating to commit shoplifting. Our office believes this bill takes an overly harsh approach that would burden the criminal justice system and exacerbate mass incarceration for relatively minor offenses. At best, it is counterproductive; at worst, it could be unconstitutional.

By imposing severe penalties on individuals who merely associate with others to commit shoplifting, the legislation risks criminalizing a vast number of people who have no significant role in the commission of the crime. The law would undoubtedly have a disproportionate impact on vulnerable communities already overrepresented in the criminal justice system, especially given that shoplifting is often driven by poverty. In addition, experts argue that harsh laws enacted in recent years to target shoplifting rings have proven ineffective at combatting the problem they aim to solve.

More importantly, ambiguity in the language of the proposed bill makes it unclear how this law would be applied in practice, and may implicate the rule of lenity, which requires that criminal laws be interpreted in favor of criminal defendants when there is doubt as to their meaning. Under our current legal framework, conspiracy charges require proof of “an agreement between two or more persons to commit an unlawful act or to perform a lawful act for an unlawful purpose.” *State v. Tavares*, 312 A.3d 449, 472 (R.I. 2024) (Internal quotation marks omitted.) This would seem to be a higher standard than simply associating with others to commit an offense; yet conspiracy to commit an act is punishable by the same amount of imprisonment as committing the act itself—here, that would be one year. R.I.G.L. §11-1-6. As the bill does not define how “associating” differs from conspiring, the potential for confusion and misapplication of the law raises serious constitutional concerns.

We urge the Committee to consider a more nuanced and rehabilitative approach to addressing shoplifting and related offenses. Rather than resorting to harsh penalties that contribute to overburdened prisons, we propose a focus on preventative measures, diversion programs, and community-based solutions that address the root causes of these behaviors.

Sincerely,

A handwritten signature in blue ink, appearing to read "Megan F. Jackson", with a long horizontal flourish extending to the right.

Megan F. Jackson
Legislative Liaison
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