

March 12, 2024

**TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER (OPD) REGARDING:**

**House Bill No: H7741**

**ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – FRAUD AND FALSE DEALING**

Chairman Craven and Members of the House Judiciary Committee:

The OPD opposes H7741, which proposes to create a new criminal felony offense for filing a false lien, instrument, or encumbrance against the real or personal property of a judicial officer. While we acknowledge the importance of ensuring the protection of judicial officers and their property, we believe that H7741 is unnecessary and duplicative. Our objection is grounded in two primary factors:

Firstly, the behavior targeted by H7741 is already criminalized under existing statutes, specifically the "filing false documents" statute § 11-18-1. This statute, as a general matter, addresses the filing of false instruments and already provides the necessary legal framework to prosecute those engaging in such conduct.

Secondly, the proposed felony offense in H7741 duplicates the penalties outlined in Rhode Island General Laws § 11-32-3 (Obstruction of the Judicial System), which already criminalizes "causing injury" to the property of a judicial officer. We believe that this existing law is an appropriate and effective mechanism for addressing such behaviors, as it takes into account the intent and purpose behind the actions of the bad actor.

Our position is that when the intent is to influence, obstruct, or impede the administration of justice, the felony statute (§ 11-32-3) is a suitable avenue for prosecution. Conversely, when these elements are absent, the filing false documents, § 11-18-1, suffices to address the offense without unnecessarily escalating the severity of the charge.

The OPD respectfully urges the House Judiciary Committee to reconsider the need for H7741 and to recognize that existing statutes adequately cover the conduct it seeks to criminalize. By relying on the current legal framework, we can ensure a fair and proportionate response to these actions while avoiding unnecessary duplication of laws.

Sincerely,

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