

OFFICE OF THE PUBLIC DEFENDER

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April 3, 2025

TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 5362

ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE – SECOND LOOK SENTENCING ACT.

Chairman Craven and Members of the Judiciary Committee:

The Office of the Public Defender tentatively supports HB5362, which grants sentencing courts the authority to reconsider an individual's sentence after ten years of imprisonment if compelling reasons exist. This legislation represents a crucial move in tackling the mass incarceration crisis, recognizing the imperative for reform and striving for a fairer criminal justice system. However, we have reservations regarding the bill's requirement that our office represent individuals seeking resentencing. Without accompanying up front funding to accommodate the expanded scope of our representation, this bill could further strain our already overburdened attorneys.

Despite that concern, we acknowledge the laudable goals the proposed bill seeks to achieve and the positive impacts it would have on the criminal justice system. Specifically, the legislation recognizes that people can be rehabilitated, and that eligible individuals who have demonstrated rehabilitation deserve to have their lengthy sentences reconsidered. It considers the fact that youthful offenders, whose crimes may have been attributable to poor decision making and impulsiveness from incomplete brain development, may no longer pose the same threat to public safety. It also rewards those who avail themselves of educational, substance use, and mental health programming at the prison with a mechanism for requesting a reevaluation of their sentence. In addition, it allows for reconsideration of sentences that may have been disparately meted out, sentences that would be affected if amendments to the law were applied retroactively, and sentences being served by inmates who should be given compassionate consideration.

The positive impacts that the bill would have on the criminal justice system are many. First, it would safely address the crisis of mass incarceration. The United States has one of the highest incarceration rates globally, and it is critical that we take proactive measures to address the impact of overly punitive sentencing practices. This legislation provides an opportunity to reassess and rectify sentences that may have been disproportionately harsh, contributing to the overall effort to reduce the prison population.

The bill could also have a positive fiscal impact, as “tough on crime” laws have resulted in an aging prison population, who have costly medical needs. In addition, such laws have disproportionately affected people of color; a 2025 report by the Sentencing Project found that nearly half of the people serving life sentences in this country are black,¹ even though the black community represents only about 14% of the country’s population according to census data. This bill could rectify some of the unintended consequences of these policies, offering a mechanism to have sentences reevaluated in light of evolving societal perspectives on the criminal legal system.

Further, the bill wisely vests discretion in the hands of the sentencing court, ensuring that the decision to resentence is carefully considered on a case-by-case basis. This approach allows for the examination of compelling reasons unique to each individual, promoting fairness and preventing a one-size-fits-all approach to sentencing. It also balances concerns about public safety by excluding from eligibility those who are serving mandatory sentences and life without the possibility of parole.

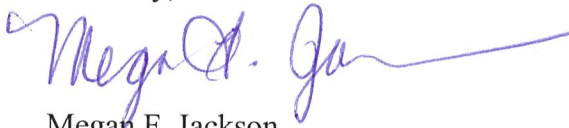
Regarding our concerns, the Office of the Public Defender is facing a significant and well documented caseload crisis. The American Bar Association Standing Committee on Legal and Indigent Defendants (ABA) has set a target ethical caseload limit, which serves as an indicator of an attorney’s ability to effectively fulfill their constitutional duty of providing prepared, zealous, and competent representation. In the fiscal year 2024, based on full-time equivalent (FTE) staffing levels, our office should have assigned no more than 7,890 cases to our adult trial division attorneys. However, the Office of the Public Defender actually assigned 12,264 cases to those attorneys, exceeding the ethical caseload limit by over 55%. The office would have needed 16 additional attorneys to meet the target ethical caseload limit. Our office requested two additional attorneys in our FY2026 agency budget request, however they were not included in the FY2026 Governor Revised Recommended budget.

In 2017 the ABA conducted a study in collaboration with BlumShapiro known as the Rhode Island Project, which aimed to establish workload standards for the Office of the Public Defender. Following a comprehensive evaluation, the Rhode Island Project concluded that our office was understaffed by at least 87 attorneys. Presently, the Office of the Public Defender is unable to ethically handle the current volume of criminal cases referred to it, let alone take on additional clients.

In summary, the Office of the Public Defender encourages the Committee to endorse HB5362 as a constructive measure in reforming our criminal legal system. We view this legislation as a well-rounded solution to tackle the issues of mass incarceration while prioritizing public safety and accountability. Nonetheless, due to our existing staffing constraints, the Office of the Public Defender is presently unable to take on referrals for petitions related to this matter.

¹ Nellis, A. & Barry, C., *A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States*, The Sentencing Project, (Jan. 8, 2025), available at: <https://www.sentencingproject.org/reports/a-matter-of-life-the-scope-and-impact-of-life-and-long-term-imprisonment-in-the-united-states/>, (last accessed 4/2/25).

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

Office of the Public Defender

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