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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 24-S 2230, AN ACT RELATING TO SEXUAL ASSAULT -- SHERRY'S LAW April 30, 2024

This bill would establish a mandatory prison sentence of ten years for first-degree sexual assault offenses. We recognize the seriousness of this crime, but approval of such a penalty would be an unfortunate step backward in this state's efforts to promote criminal justice reform. We therefore strongly urge opposition to this bill.

Mandatory sentencing is not only contrary to the justice reinvestment reforms the General Assembly has enacted in recent years, it is an ineffective, costly and discredited approach to criminal justice. It has been an unfortunate driver of the mass incarceration epidemic in this country, and has been opposed by organizations across the political spectrum, as well as a distinguished commission chaired many years ago by former U.S. Supreme Court Justice Anthony Kennedy.

The American Bar Association has noted the misleading nature of "mandatory" sentencing:

Aside from the fact that mandatory minimums are inconsistent with the notion that sentences should consider all of the relevant circumstances of an offense by an offender, they tend to shift sentencing discretion away from courts to prosecutors. Prosecutors do not charge all defendants who are eligible for mandatory minimum sentences with crimes triggering those sentences. If the prosecutor charges a crime carrying a mandatory minimum sentence, the judge has no discretion ... to impose a lower sentence. If the prosecutor chooses not to charge a crime carrying a mandatory minimum sentence, the normal sentencing rules apply.

Whatever the offense, mandatory sentencing undermines individualized justice and inappropriately ties the hands of judges. Just as importantly, these sentencing schemes tend to have an alternative, and just as troubling, intended effect – forcing individuals to plead to other charges for the same conduct, even if they are innocent, in order to avoid the potential imposition of a mandatory sentence.

We therefore urge the committee to oppose any efforts to implement mandatory sentencing schemes like this one. Thank you for considering our views.