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TESTIMONY ON 21-H 5451, H-5452, and H-5453
RELATING TO MARIJUANA
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The ACLU of Rhode Island strongly supports the goal of all of these bills, which seek to promote social justice and equity in the legalization of marijuana and strengthen the state's medical marijuana program. Our specific comments about the bills, and some suggestions for amendments, follow below.

H-5451

This bill would transfer excess revenues raised by the state's medical marijuana program from the general fund to the distressed communities relief fund and to certain charitable organizations. The ACLU supports this bill's intent of targeting the disbursement of medical marijuana revenues to more relevant ends, but we believe that allowing legislative leaders to divvy up funding to charitable organizations of their own choosing is problematic. It is likely to lead to allegations of favoritism, whether justified or not, and the organizations selected could have nothing to do with the work that so many marijuana-related bills being considered by the General Assembly this session seek to address, such as equity in the licensing of marijuana businesses or removing fees for the expungement of drug-related criminal records.

In short, a realignment of revenue, we believe, should go to directly address the problems caused by the "war on drugs," such as through the creation of social equity programs as envisioned in bills like H-5452 and H-5930.

H-5452

In supporting a number of provisions in this bill seeking to promote social equity in the state's marijuana program, we also have a few suggestions for revising some of them.

* The legislation would, commendably, broadly authorize the expungement of marijuana-related offenses from criminal records. We urge that, to the extent possible, the expungement process also be made automatic. Otherwise, the barriers that currently exist in the expungement process (taking time from work to go to court, finding an attorney to assist, etc.) will prevent many people from taking advantage of this important opportunity.

* We support the bill's requirement of studies to determine whether racial disparities exist in arrest and conviction rates relating to marijuana. Having highlighted this particular disparity in the past and its significant impact on Rhode Islanders, our organization strongly supports having a statutorily mandated process as a way of beginning to address this inequity.

Studies have routinely shown that the percentage of Blacks and whites who use marijuana is approximately the same. But according to ACLU analyses over a span of almost 20 years, Rhode Islanders who are black are three times as likely to be arrested for marijuana possession as whites. Given the low overall rate of arrest for marijuana possession in Rhode Island, this racial disparity is especially troubling and striking.

* We similarly appreciate that this legislation requires examination of any disparities in obtaining a license to sell legal marijuana, as a major concern for the ACLU has been the effect that a person's past conviction of a crime related to marijuana might have on their ability to procure one of these licenses. In that regard, we also urge that the bill address the current criminal record barriers that exist for getting into the marijuana business; H-5453 addresses this issue directly and we would urge its incorporation into this bill.

* In laudably establishing a marijuana economic opportunity fund, the legislation, for understandable reasons, limits its scope to provide funding to people of color, the group most disproportionately harmed by the "war on drugs." However, we are concerned that a qualification that is based solely on race could lead to constitutional challenges to the program, preventing it from getting established. We would encourage that the bill instead establish a different qualification pool, such as that contained in H-5930, which provides support to economically disadvantaged communities and individuals rather than focusing exclusively on people of color. While the overlap would be substantial, a race-neutral program is in a much better position to survive constitutional scrutiny.

H-5453

This legislation has a number of important provisions strengthening the medical marijuana program that we strongly support:

* Expanding the medical conditions that qualify a person to use medical marijuana.
* Establishing a financial hardship registration process to allow patients to receive discounts on medical marijuana products.
* Barring state agencies from adopting policies that discriminate against the lawful use of medical marijuana.
* Eliminating criminal record check barriers to enter the marijuana trade based on past drug-related offenses.

Adoption of these provisions would help make the medical marijuana fairer and more open.

In conclusion, as Rhode Island moves closer to legalizing marijuana, it is critical to consider the substantial impact on those who have been most affected by its criminalization. It is essential that social equity accompany legalization. By requiring a closer examination of racial disparities in the policing of marijuana and the legal sale of marijuana, addressing expungement, establishing special funding mechanisms for disenfranchised entrepreneurs, and adopting many of the other measures contained in this package of bills, legislators can take deliberate and decisive steps towards equity.