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## **ACLU OF RI POSITION: AMEND**

### **TESTIMONY ON 23-H 5700, RELATING TO TRESPASS AND VANDALISM March 28, 2023**

This bill would impose a fine for using signage that “deters the public from using a public right-of-way” to the water. While the ACLU of Rhode Island has no objection to the intent behind this legislation, we recommend that it be more narrowly crafted in order to avoid potential First Amendment implications.

To be clear, we do not believe that the First Amendment protects a property owner who, for example, posts a sign falsely claiming that the right-of-way is private land, or that threatens with arrest anybody making use of the access way, or that otherwise misleads a person into believing they have no right to access the public right-of-way to the shore. But a sign erected on the property of a homeowner that, say, asks beachgoers not to use the right-of-way during certain hours, might deter some people from entering the right-of-way, but it is a message that, we submit, cannot be punished under the First Amendment.

We would therefore urge that the wording of the bill be amended to make clear that mere deterrence is not a sufficient basis to impose a fine under this statute, but that the signage must attempt to mislead the public into falsely believing they do not have a right to access the right-of-way. With such a revision, we believe the bill would both accomplish its goal and ensure fealty to First Amendment rights.

Thank you for considering our views.