

Roberta DiMezza

From: Michael DiLauro <madpd2001@yahoo.com>
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To: House Judiciary Committee
Subject: 2026--H 8463
Attachments: State v Burkinshaw 271 A3d 580 RI 2022 (1).pdf

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RE: 2026--H 8463

Dear Chairperson McEntee & Members of the House Judiciary Committee:

The legislation referenced here is scheduled to be heard by the House Judiciary Committee on Thursday, 4/30/26 at The Rise of the House. In opposing this legislation I am relying upon and providing the committee with a copy of the SCORI decision in *State v. Burkinshaw, 271 A.3d 580 (R.I. 2022)*. I am doing so for the following reasons:

- 1) RI recognizes the possibility of self-defense to a charge of resisting arrest as a matter of common law
- 2) the defense is available when excessive force is used by law enforcement to effectuate the arrest
- 3) the resisting arrest statute 12-7-10 that would be amended by the enactment of this legislation would add the following language “(2) *It shall be unlawful for any person in custody of the Rhode Island department of corrections to use any force or weapon to resist a lawful request or directive by a corrections officer.*” (emphasis added)
- 4) As such the legislation as written is inconsistent with the common law gloss placed upon the resisting arrest statute 12-7-10 by the SCORI's decision in *Burkinshaw*.

Because the court in *Burkinshaw* specifically stated that “an arrestee maintains the right to defend himself against use of excessive force.” (*Burkinshaw* at 585) I believe that the legislation if enacted into law would be inconsistent with that decision; could therefore lead to confusion and absurd results; and might actually enhance the possibility of violent episodes at the ACI.

Thank you for the opportunity to share this information with the committee.

Respectfully,

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