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ACLU OF RI POSITION: AMEND

**TESTIMONY ON 21 – H 5486,
AN ACT RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL
DISABILITIES AND HOSPITALS – EMPLOYEE CRIMINAL RECORDS CHECK
March 1, 2021**

The ACLU of RI is appreciative of the opportunity to provide testimony on this piece of legislation which makes revisions to current requirements governing criminal background record checks for BHDDH employees and licensees. Among other things, it would require individuals to have national checks performed not only at the time of first employment, but every five years thereafter. It also requires the cost for the check to be borne by the individual or the requesting agency.

In particular, we would like to express our opposition to the latter provision to the extent it allows an applicant to be charged for their own background check. We urge that this language be removed from the bill.

Rhode Island General Laws §28-6.3-1 has long provided that “[n]o employer or agent of any employer shall charge a fee for the filing of an employment application.” Too often, though, as in this instance, that law has been undermined by exceptions like this. The General Assembly had good reason to ban employment application fees, but having to pay for a background check is, for all intents and purpose, precisely that kind of fee. If the state believes that a criminal record check is an essential component of being hired for a job, the state should take the responsibility for paying for it. The fee burden on individuals often taking low-paying jobs is made even more onerous under H-5486, since it could require employees to foot the bill not just at the time of initial employment, but every five years afterwards as well.

Because we believe that it undermines the policy contained in §28-6.3-1 to charge applicants for their own background checks, we urge that this provision be deleted.

Thank you for your consideration.

Submitted by: Steven Brown, Executive Director