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ACLU OF RI POSITION: NEUTRAL/SUPPORT IN PART

TESTIMONY ON 26-S 2149, RELATING TO WARWICK MUNICIPAL COURT February 26, 2026

The ACLU of Rhode Island has no position on this bill's proposal to expand the jurisdiction of Warwick Municipal Court to cover various zoning and related matters. However, we do wish to express our strong support for the bill's removal of language from the current enabling statute that allows the court to impose a prison sentence of up to thirty days in jail.

As is the case with Warwick, over many years the General Assembly enacted enabling statutes allowing municipalities to impose prison sentences of up to thirty days for violations of local ordinances. However, in the past decade, the ACLU and other organizations have encouraged municipalities to revise the penalty provisions in their ordinances to eliminate the prospect of imprisonment as a potential punishment for violations of these minor offenses. The problem was not just that this penalty fell overwhelmingly on indigent defendants, but also because it was common practice in some municipalities to sentence individuals to periods of incarceration without first providing legal counsel.

However, decades ago, the United States Supreme Court made clear that "absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor or felony, unless he was represented by counsel at his trial." *Argersinger v. Hamlin*, 407 U.S. 25 (1972); *Scott v. Illinois*, 400 U.S. 367 (1979). These cases make it clear that the denial of the assistance of counsel precludes the imposition of a jail sentence. That is true whether or not the prison sentence is handed out in the original case or later for a violation of the conditions imposed in the original case, such as failure to pay a fine. Yet most municipalities simply don't have the resources or infrastructure to provide that access, and the threat of a prison sentence is simply an inappropriate one, both legally and as a matter of good public policy.

With this amendment, Warwick will join many other municipalities that have recognized the inappropriateness – and illegality absent a structure in place to provide counsel – of sentencing individuals to prison for petty violations of local ordinances. We therefore strongly support this bill's elimination of that power.

Thank you for considering our views.