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ACLU OF RI POSITION: OPPOSE IN PART

TESTIMONY ON 26-S 2401, RELATING TO TOWNS AND CITIES -- GENERAL POWERS March 12, 2026

This bill would authorize the establishment of a housing division within the city of Cranston’s municipal court. While the ACLU of Rhode Island has no position on that aspect of the legislation, we do wish to express our opposition to the bill’s further authorization for the housing division to impose on violators a prison sentence of up to thirty days in jail, a power that exists for the current municipal court. We believe in both instances that authorization should be removed.

Over the course of 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, and some have willingly done so.¹ 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 (unlawfully) to periods of incarceration without first providing legal counsel.

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); See also *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, whether or not the prison sentence is handed out in the original case or later for a violation of the conditions imposed in the underlying case, such as failure to pay a fine. Yet most municipalities simply don’t have the resources or infrastructure or desire to provide that access, and the (potentially idle) threat of a prison sentence is simply an inappropriate one, both legally and as a matter of public policy.

We therefore urge the deletion of this authorization from the bill, and ask that the same power that currently exists in the statute for Cranston’s municipal court be removed as well. In doing so, the city will join 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. Thank you for considering our views.

¹ We note that this committee recently heard legislation that would commendably remove the prison sentencing powers from Warwick’s municipal court. See bill 26-S 2149.