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## **ACLU OF RI POSITION: OPPOSE**

### **TESTIMONY ON 26-S 2489, RELATING TO DOMESTIC RELATIONS – DOMESTIC ABUSE PREVENTION March 12, 2026**

The ACLU of Rhode Island opposes this legislation which would vastly expand the definition of “domestic abuse” for purposes of obtaining a protective order to include examples of “coercive control.” While we understand the intentions of this bill, we believe that the expanded definition is overbroad and presents a number of concerns.

One of our biggest concerns with the legislation is that the proposed expansion of what constitutes domestic abuse has the pivotal distinction of not requiring a threat of imminent or likely physical harm. Restraining orders, which are a common type of protective order, are temporary emergency orders designed to address imminent threats to physical harm only. Restraining Orders, by their very nature, are limitations on people’s civil rights, most notably the First Amendment Rights and Due Process rights. In order to balance the need to help to be safe, while also maintaining people’s constitutional rights, the Federal Courts, the Rhode Island state Courts, as well as this body have all made it clear that the line for the issuance of these types of orders that infringe on these constitutional rights requires that there be either a physical harm that has already happened, or that the physical harm threat be “imminent.”

While domestic abusers may often employ the types of behaviors cited in the bill, they also implicate numerous legitimate and useful – and sometimes even necessary - activities. Just as in criminal law where we require that a person take a “substantial step” before they can be convicted of an “attempted” crime – in order to safeguard people’s civil rights – and legitimate activities - from being criminalized, in a restraining order context the requirement is that the threat be imminent. The proposed bill would make the definition so broad as to swallow that protection entirely. These additional don’t even require the suggestion or perception of harm. It is not at all clear that these additions might not cause the entire restraining order system to fail because it no longer meets constitutional muster.

One example of how these broad additions can cause chaos is in parenting. Parents regularly monitor their child’s whereabouts, their access to money, and restrict their movements through things like grounding as punishment or establishing nightly curfews, and attempt to limit

who they can be around. Every one these actions would implicate a parent under this legislation and could entitle a child to obtain a restraining order against their parent. The bill's scope is also problematic when considered in the context of parents who have had an acrimonious divorce or extended custody battle. One person could seek a restraining order against a parent for nothing other than legitimate parenting decisions, thereby making the child a potential pawn in the arguments between parents, or permitting the child to manipulate the parents and seek a restraining order any time the child doesn't like the limitations put on them by one or both parents. Similarly, in many divorce cases when assets and debts are being divided, this bill would open up the possibility for a restraining order (and an attorney trying to get a leg up) by saying that one person was primarily in charge of the finances – even if no domestic violence is present. The examples within this context could go on and on.

It is also worth pointing out that the bill could unintentionally invalidate the provisions passed by this body a few years ago requiring individuals subject to a domestic violence restraining order to surrender firearms. While the U.S. Supreme Court upheld against a Second Amendment challenge a federal law prohibiting individuals from possessing firearms while under a domestic abuse restraining order, it did so by requiring that before someone can be prohibited from possessing firearms, there must be a finding that they pose a clear physical threat. The Court only endorsed the common sense proposition that when “an individual poses a clear threat of violence to another, the threatening individual may be disarmed.” *United States v. Rahimi*, 602 U.S. 680 (2024) (emphasis added). The outcome could very well be different with a law such as that proposed here containing an extremely diffuse definition of “domestic abuse,” untied to any suggestion of physical harm.

Because of its undue breadth and potential unintended implications for a variety of situations, we therefore urge rejection of this bill. Thank you for considering our views.

Submitted by: Heather Burbach, ACLU of RI Volunteer and Board Member