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**TESTIMONY IN SUPPORT OF 18-H 7601 –
RELATING TO ACCESS TO PUBLIC RECORDS
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Six years ago, the General Assembly passed important legislation updating and strengthening the state’s Access to Public Records Act. It enacted a “balancing test” so that individually identifiable records were no longer automatically exempt from disclosure under the law. It increased penalties for violations of the law, established new procedures for access to police arrest logs, and gave requesters the ability to determine the format in which they would receive records.

As important as those revisions were, it has become clear that much more needs to be done. A report by ACCESS/RI examining how state and municipal agencies were implementing the 2012 amendments revealed deep areas of non-compliance. In addition, Attorney General advisory opinions interpreting the statute in the past few years in ways unfriendly to requesters – ruling, for example, that agencies could charge requesters for the time to write a letter denying access to documents, or allowing agencies to ignore APRA requests if they happen to be directed to the wrong personnel – cry out for correction. In addition, other loopholes have made themselves known since then, and revisions that were suggested in the original 2012 bill but ultimately jettisoned deserve reconsideration.

For all these reasons, the ACLU of Rhode Island supports H-7601, the latest effort to make our open records law stronger and more useful to members of the public. Attached to this testimony is a brief summary of each of the bill’s provisions. The proposed changes cover a number of important issues: slightly tightening up the exemptions for so-called “investigatory” records and police incident reports; requiring an agency’s procedures for handling APRA requests to be more easily available; calling for greater explanation when records are withheld; and making Attorney General advisory opinions interpreting the statute more easily accessible on the web.

Promoting transparency and the public’s right to know is critical to any democratic society. In the spirit of encouraging that transparency, we urge the committee to review this bill carefully and to adopt its recommendations.

**2018-H 7601,
AMENDMENTS TO ACCESS TO PUBLIC RECORDS ACT**

1. Page 1, line 9-10. This clarifies the meaning of the privacy language in the purpose section of the statute.
2. Page 1, lines 19, Page 2, lines 1-2 Specifies that college police departments employing police officers are subject to the Act.
3. Page 2, lines 8-10, Page 4, lines 24-25. Addresses and limits the current exemption for elected official correspondence.
4. Page 2, line 13; Page 6, line 5. Clarifies that all withheld records are subject to “reasonable segregable” provision.
5. Page 2, lines 30-32. Clarifies that past as well as present employment information is public.
6. Page 3, lines 30-33. Includes definition of narrative report for police records.
7. Page 3, lines 33-34. Addresses the availability of non-arrest police incident reports.
8. Page 4, lines 17-18. This language is moved to another section for clarity. (See #18).
9. Page 4, lines 24-25. See #3.
10. Page 5, line 1. Allows for disclosure of “investigatory records” for good cause.
11. Page 5, line 34. Clarifies that records of a public body are subject to disclosure even if maintained at another location.
12. Page 6, lines 9-11. Clarifies the scope and process for releasing “reasonably segregable” records.
13. Page 6, lines 21-23. This language is moved to Page 8, lines 4-6 for clarity. See #20.
14. Page 6, lines 23-26. Requires public bodies to include a prominent link to their APRA procedures on their website.
15. Page 6, lines 27-29. Allows requests to be filed by mail, fax or email.
16. Page 7, lines 1-6. Strengthens language governing requests for extension of time to respond to APRA requests.
17. Page 7, lines 30-31. This language has been moved from another subsection for clarity. See #8.

18. Page 7, lines 32-33. Clarifies that failure by a requester to follow all the technical procedures in filing a request is not a basis for ignoring the request.
19. Page 7, line 34 through Page 8, line 3. Requires public bodies to forward APRA requests to the appropriate person within the agency, and extends the timeframe available for responding to request under those circumstances.
20. Page 8, lines 4-6. This language has been moved from another subsection for clarity. See #13.
21. Page 8, lines 22-23. Revises provision regarding timeframe for access to police logs.
22. Page 8, lines 23-24. Requires AG to establish uniform arrest log form for police departments to use.
23. Page 8, lines 31-34. Requires AG to post online information about public body compliance with certification requirement of the law.
24. Page 9, line 4. Reduces copying cost from 15 cents to 10 cents a page.
25. Page 9, lines 8-14. This bars charging for the retrieval or redaction of documents or for denial of records unless multiple requests for records are made in a 30 day period.
26. Page 9, lines 21-26. Requires reduction or waiver of costs for requests that are in the public interest, and allows for appeals of any denials of waivers.
27. Page 10, lines 6-8. Allows court to award damages and impose daily fines for violations.
28. Page 10, line 19. Clarifies that settlements of legal claims by, as well as against, public agencies are public.
29. Page 10, lines 25-27. Restores AG opinions on website for easy reference.