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COMMENTS IN OPPOSITION TO 17 H 5229 – THE YOUTH PROTECTION ACT
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The ACLU of Rhode Island remains opposed to the increasing use of background check statutes to stigmatize, solely because of their pasts, individuals looking to give back to their community. The immense breadth of this legislation, coupled with the reliance on DCYF to identify the offenses that may "disqualify" an individual, raise particular concerns that all but ensure confusion among employers, rejection or dismissal of valuable employees, and a chilling effect on volunteerism among the community.

State law already requires employees and volunteers of a number of youth serving agencies to undergo background checks prior to their employment. This legislation provides little to no guidance as to *who* would newly need to undergo background checks. While the legislation speaks to any person who has "supervisory or disciplinary authority over a child or children," those terms are not clarified. As a result, virtually any employee or volunteer in the state who comes into contact with a child – or some adults, even if children are not otherwise present – may be subject to this background check requirement. This appears to include current employees, raising serious concerns that longstanding, dedicated employees may find themselves fired over a distant criminal offense unrelated to their daily employment tasks.

Further, granting DCYF responsibility for identifying the offenses considered disqualifying puts this legislation out of place with virtually every other background check statute in the General Laws. By failing to identify exactly those offenses which the State of Rhode Island believes render an individual unfit for contact with children, this legislation places DCYF in the inappropriate position of governing the hiring of employees and volunteers for agencies they do not oversee, and have no understanding of. This provision additionally makes it difficult for employees and volunteers to know in advance what they may be disqualified for, and greatly increases the risk that disqualifying offenses will change without warning or public input at DCYF's discretion.

This, coupled with the legislation's failure to allow individuals to explain to their employers why their criminal record does not render them unfit to be around children is both an circumvention of the state's "Ban the Box" legislation and runs contrary to guidance by the Equal Employment Opportunity Commission. To ensure background checks comply with Title VII of the Civil Rights Act, the EEOC requires three factors be taken into account in the hiring of individuals with criminal records: the nature and gravity of the offense, the time that has passed since the offense, conduct and/or completion of the sentence, and the nature of the job held or sought. The breadth of this legislation leaves Rhode Island's youth serving agencies open to violations of Title VII, and directly conflicts with the state's "Ban the Box legislation," which

aimed to ensure people had the chance to be evaluated on their own merits before they were evaluated on the basis of their criminal record.

In light of all the concerns discussed above, we respectfully encourage the committee to reject this legislation as written.