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**TESTIMONY ON 19-S 138 – AN ACT RELATING TO HEALTH AND SAFETY
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The ACLU of RI recognizes that this bill is simply an attempt to resurrect a statute that had been on the books until its deregulatory repeal in 2015. But if serious consideration is being given to reenacting this law, it is an opportune time to revisit the section dealing with license denials or suspensions relating to a person's criminal record. We are deeply concerned about its breadth, as it authorizes the denial or suspension of a license if the person was convicted of *any* felony or convicted of a misdemeanor for which an "essential element is dishonesty."

This broad restriction on licensure means otherwise qualified individuals could be prohibited from working in laboratories because of an irrelevant criminal record. We note that this expansive language goes far beyond what is currently used in other Department of Health licensing statutes, including those involving licensees who have much more direct dealings with the public, such as assisted living employees, R.I.G.L. §23-17.4-30, or massage therapists, R.I.G.L. §23-20.8-5. Although the ACLU believes that those other statutes also cast too wide a net and unduly harm people with past records, there has at least been a modest attempt to craft them in a way to somewhat narrow their reach. They designate only certain felonies as being potentially disqualifying, and do not make misdemeanors disqualifying offenses at all, whether related to "dishonesty" or not (a vague standard that provides little useful guidance and could encompass a 20 year old shoplifting conviction).

Such potentially broad discrimination against people with past criminal records also flies in the face of recommendations by the Equal Employment Opportunity Commission and the goal of the state's "ban the box" law. To ensure background checks comply with Title VII of the Civil Rights Act, EEOC guidelines caution against the arbitrary use of criminal record history to deny employment, and instead require that certain factors be taken into account, such as the nature and gravity of the offense, the time that has passed since the offense, and the person's conduct after completion of the sentence. Nothing in this bill ensures that criminal record check decisions will follow those standards.

Committee members are probably aware of the recent medical lab scandal in Massachusetts – because it is worth noting that it involved staff with no criminal records. Finally, we note that, unlike other licensing professions requiring background checks, medical laboratory professionals are not in contact with the public as part of their job. Because of the adverse impact of such checks on the rehabilitation and reintegration of ex-offenders, we urge that the requirement for background checks be eliminated.

Instead, we ask the Committee to look to legislation introduced by Sen. Metts that seeks to address in a more holistic manner the process for state occupational licensing in dealing with past criminal record history of applicants, with the goal of removing unnecessary barriers to employment for those who have been involved in the criminal justice system in the past.