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**COMMENTS IN SUPPORT OF 14-H 7505 – CRIMINAL RECORD BACKGROUND
CHECKS
March 18, 2013**

The ACLU of RI supports the unification of procedures and requirements for the state's background check laws. This legislation alleviates the flaws in existing background check statutes, providing guidance for employees and applicants, while bringing these laws more in line with the guidelines put forth by the Equal Employment Opportunity Commission (EEOC).

Over the past several years the General Assembly has passed a spate of new background check laws, some carefully crafted and comprehensive, and some less so. This legislation deals with the latter, including statutes discussing background checks for nurses, school employees, educators of very young children, nursing service agencies, massage therapists, bus drivers, child care and youth serving agency workers, and those serving municipal recreation departments.

In each case, the legislation ensures that there are clear definitions of disqualifying information. The legislation does not eliminate any crimes from the existing definitions of disqualifying information, but provides guidance where there currently is none, by referring to other disqualifying information statutes currently in existence in state law.

The legislation also puts into place a clear standard for the discovery and disclosure of this disqualifying information, as recommended by the EEOC and again reflected in other background check statutes in state law. When a background check is requested, under this legislation and some existing background check statutes, the attorney general's office or other agency processing a background check informs the employer, in writing, that no disqualifying information has been found or, in writing but without disclosing the disqualifying crime, that disqualifying information has been found. The applicant is then provided with a letter noting the nature of any disqualifying information found. At the applicant's request, a copy of the background check including the particular disqualifying information may be given to the employer, who will then make an independent determination regarding the applicant's hiring.

Finally, the legislation requires the prompt destruction of any fingerprint cards used in the background check, and ensures that no applicant will be required to pay for the cost of a criminal background check. R.I.G.L. 28-6.3-01 clearly states, "[n]o employer or agent of any employer shall charge a fee for the filing of an employment application." As background checks are a requirement of employment for these professions, we believe they constitute part of the employment application and charging applicants for their own background is thus contrary to protections inscribed in state law.

The ACLU of RI supports this legislation and encourages the committee's favorable consideration.