



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

TESTIMONY ON 21-H 36
RELATING TO HOUSE RULES AND THE EXPULSION OF MEMBERS
January 21, 2020

This resolution addresses an extremely weighty subject: the expulsion of, and taking other disciplinary against, democratically elected House members. Since a hearing on this resolution is being held only two days after its introduction, we are not in a position to provide detailed commentary on the proposal. However, we would like to offer a few general comments.

We appreciate the resolution's recognition of the need for some basic elements of due process for any member subject to discipline under the rules. But in at least two respects, we believe stronger protections are in order. First, while we realize that Article VI, Section 7 of the Rhode Island Constitution gives the House broad authority to determine how and why to expel members, that should not serve as a justification for omitting any meaningful standards on the conduct that could lead to such a grave action.

Some cabining of discretion is essential because of the serious consequences of expulsion. It does not just affect one Representative – it affects thousands of residents, depriving the constituents of a legislative district of their expected representation from the person they duly elected. This disenfranchisement of an entire voting district is such an extraordinary intrusion on the representative process that it should be exercised with some clear standards in place.

Recent experience on the Senate side of the building highlights our concerns. Three years ago, a resolution was introduced to expel a member from that body for the first time in modern history. The resolution threw together a potpourri of different claims – at least one of them seemingly irrelevant (the negative press coverage that the Senator had received after being charged with a seven-year-old criminal offense) and another one less than earth-shattering (the cooperative settlement of a campaign finance law violation with the Board of Elections) – in order to establish a “pattern” of behavior that made it much harder to systematically defend. The resolution was made moot by the Senator's voluntary resignation, but in our view it offered a lesson on the danger of having unconstrained grounds for expelling a member.

Our second concern relates to the proposal giving the House Speaker the unilateral right to censure or reprimand a member. While the Representative is given the right to appeal that punishment, that person is at a distinct disadvantage once the most powerful legislator in the chamber has put their thumbs on the scale in such an overt manner. Such a sanction can have severe political consequences for a Representative and thus too easily allows one person to use the punishment in a partisan or politically motivated way. Like expulsion, we believe any such discipline should go through a committee process.

Again, the ACLU welcomes this resolution's effort to require some basic due process rights in the expulsion process, but we also believe it warrants more deliberate focus and constraint.

Submitted by: Steven Brown, Executive Director