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**TESTIMONY IN SUPPORT OF 21-H 5262 and H-5266,  
RELATING TO FAIR EMPLOYMENT PRACTICES  
February 10, 2021**

The ACLU of RI strongly supports the changes set forth in both of these bills, which would achieve considerable improvements in the laws addressing employment discrimination.

The changes to current laws made by these bills are modest but important. They would improve the ability of all persons to obtain relief under our state's Fair Employment Practices Act from discrimination or retaliation in the workplace, including those asserting claims based on race, national origin, age, religion, disability, sexual orientation, gender identity or expression, as well as sex.

Both H-5266 and H-5266 contain identical amendments to RI General Laws §28-5-7(6), which would make individual employee-supervisors, and not just the company employing them, subject to personal liability for their own acts of discrimination. These amendments would restore the interpretation that had been in effect and utilized by the R.I. Commission for Human Rights before the decision of the RI Supreme Court in *Mancini v. City of Providence*, 155 A.3d 159 (RI 2017), which ruled that only the employer can be held liable. The difference between the two bills in this regard is that H-5266 would restore the coverage retroactively while H-5262 is prospective only. We support passage of either/both provisions.

The potential of individual liability is particularly important in deterring sexual and other forms of harassment. Employers with an established policy prohibiting discrimination may have

defenses to shield the company from liability for intentional actions of supervisors, but the *Mancini* decision means that the individual supervisor can never be held accountable.

In addition to legislatively overruling *Mancini v. City of Providence*, H-5262 would amend the definition of “employee” in §28-5-6 of the RI-FEPA to specifically include elected officials, as well as apprentices, volunteers and unpaid interns and pages, and to eliminate an archaic and discriminatory exemption for domestic workers.

While much attention may be focused on that bill’s application to elected officials, the amended definition’s protection for other volunteers and interns and those engaged in “domestic service” are just as, if not more, important. Like any other employee, they deserve protection from discrimination in the workplace.

As for elected officials, H-5262 makes explicit that the individuals working or serving within state and municipal legislative bodies are entitled to the protections of the Fair Employment Practices Act against sexual harassment and against all forms of employment discrimination. At the same time, this expansion is appropriately limited, as the bill also makes clear that the protection accorded to legislators by the Rhode Island Constitution’s “speech in debate” is unaffected.

The ACLU urges passage of these important anti-discrimination bills.