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ACLU OF RI POSITION: OPPOSE

**TESTIMONY IN OPPOSITION TO 2024-S 2935,
AN ACT RELATING TO DEPARTMENT OF ATTORNEY GENERAL
April 11, 2024**

The ACLU of Rhode Island is opposed to this bill which would substantially expand the authorities of the Department of Attorney General. The proposed legislation would provide sweeping authority for the Attorney General to conduct civil investigations and bring court action to enjoin any “repeated fraudulent or illegal acts” or “persistent fraud or illegality in the carrying on, conducting or transaction of business or governmental activity.”

The proposed legislation incorporates procedures of the current Deceptive Trade Practices Act, both in concept and in the availability of civil investigative demands. But the scope of the new authority being provided, whatever its intent, appears almost limitless. The acts proposed to be subject to Attorney General investigation and enforcement are simply described as “in the carrying on, conducting or transaction of business or governmental activity.”

The Deceptive Trade Practices Act, R.I.G.L. § 6-13.1-2, already covers “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce” and allows the Attorney General to sue to enjoin such practices and to conduct civil investigations.

This bill, in contrast, appears to expand “deceptive practices or representations,” as well as any repeated “illegality,” to cover any business—not just in dealings with the consumer—and any governmental activity and any type of unlawful practice. Since none of these terms are defined or limited in scope, no limit can be assumed. Thus, as currently written, it would authorize the

Attorney General to investigate and seek to enjoin any “repeated” illegal conduct of any kind. It also leaves completely undefined the scope or object of “governmental activity.” Is the focus on fraudulent or illegal transactions *by* the government towards members of the public? Or does it also, or only, focus upon transactions by individuals and businesses in dealing with the government? In either circumstance, it appears unnecessary.

There are already a host of civil and criminal provisions applicable to individuals and businesses against engaging in fraudulent (and illegal) transactions with the government. If, in contrast, the Attorney General is looking for additional authority to prevent fraudulent transactions *by* state or local government agencies, then a much clearer authorization should be sought. If the Attorney General is instead seeking to address any and all non-fraudulent but illegal conduct of any other kind, the ramifications of that power are extraordinary. To give one timely example, the Attorney General could impose the full civil investigative weight of the government on a pro-Palestine group that organized “repeated” protests obstructing access to streets or buildings.

In sum, as written, the proposed legislation would provide unlimited authority to the Attorney General to conduct civil investigations in virtually every corner of public or private life. The ACLU of Rhode Island opposes its passage as written. It should be rejected or else revised to make clear precisely against whom and what the proposed legislative expansion is directed so that a more informed determination can be made as to its scope, need and value.

Submitted by:
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