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## ACLU OF RI POSITION: OPPOSE

### TESTIMONY ON 23-H 5234, RELATING TO GENERAL STATE OFFICERS March 8, 2023

This bill would impose a five-year residency requirement to qualify as a candidate for Governor. We acknowledge that Rhode Island is one of only a handful of states that has a *de minimis* residency requirement, and we appreciate the arguments that are offered for imposing a more substantial residency obligation on candidates. Ultimately, however, we believe it should be up to the voters themselves to size up the candidates in any particular election and determine their qualifications as a whole – including whether a lack of a lengthy consecutive presence in the state is reason not to vote for them. A five-year residency requirement is, we submit, an arbitrary qualification standard that inappropriately overrides the potential will of the voters.

Under this proposal, for example, a person who had lived here for decades and moved out of state for a year or two for work-related reasons would be disqualified from running for Governor until they had returned to the state for five years. Yet that person would likely have much more knowledge and understanding of the state than a candidate who had lived all but five years somewhere else.

Even assuming that a person who has resided in the state for at least five years has a better understanding of Rhode Island than somebody who has been here a shorter time, that in no way necessarily translates into them actually having a better understanding of the state and Rhode Islanders' *political needs and interests*. After all, a person who has held office or actively participated in government in another state may have a better capability and appreciation of how to serve constituents than a native Rhode Islander who has no political experience whatsoever. Knowing "where the Benny's used to be" should only go so far in serving as a formal qualification for running for Governor.

Indeed, virtually all of the arguments for this proposed Gubernatorial residency requirement apply, as a matter of policy, just as readily to demanding that Congressional candidates live for five years in the district they seek to represent before running for that office. But as we know from the most recent special election in Rhode Island, voters felt very comfortable making a contrary choice. By the same token, the voters also spoke resoundingly in the last Gubernatorial election in rejecting the "outsider" candidate running for that office – all without the necessity of a constitutional amendment.

These electoral outcomes only demonstrate that the length of one's residency in the state can be a factor for voters to consider – but not an official basis for disqualifying a person from running in the first place. As one court concisely put it: "If a short sojourn in the community is considered to be a disqualification, the electorate may voice its sentiment at the ballot box."<sup>1</sup> Put another way, Rhode Islanders "can put a candidate's physical location into proper perspective and do not need a residency requirement to assist in this understanding."<sup>2</sup> For all these reasons, the ACLU urges rejection of this proposed constitutional amendment.

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<sup>1</sup> *Mogk v. City of Detroit*, 335 F.Supp. 698, 701 (E.D. Mich. 1971).

<sup>2</sup> Pitts, Michael J. (2016) "Against Residency Requirements," University of Chicago Legal Forum: Vol. 2015, p. 364, Article 11. Available at: <http://chicagounbound.uchicago.edu/uclf/vol2015/iss1/11>