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## **ACLU OF RI POSITION: OPPOSE**

### **TESTIMONY ON 23-H 5358, RELATING TO ABUSED AND NELECTED CHILDREN March 16, 2023**

While we appreciate the impetus behind this legislation, which would make it a felony for teachers, coaches or any other person in a “position of authority” to fail to report child abuse or neglect, the ACLU of RI has serious concerns about it. The continued adoption of laws that increase criminal sentences, and particularly laws that lead to the “felonization” of more and more offenses as this one does, is troubling and contrary to the many criminal justice reforms the General Assembly has enacted in recent years. In addition, we would note that questions are being raised as to whether mandatory reporting laws may have unintended adverse effects, and we believe those questions are worth examining in more depth when considering legislation like this.

First, we do not believe that enhancing the punishment from a misdemeanor to a felony will have any meaningful impact other than give the state greater power to force people to plead to the lower misdemeanor offense when they might otherwise challenge the charges against them. The potential consequences of a felony conviction – and the various collateral consequences that flow from it – serve as an effective prosecutorial tool to coerce pleas. In addition, a person’s decision whether to ignore a mandatory reporting law is not going to hinge on whether they face one year or five years at the ACI. Further, by having the increased felony penalty apply to anybody in an undefined “position of authority,” this bill will turn the offense into a felony in the vast majority of reporting situations.

We would also note that recent news stories have raised questions about the effectiveness of mandatory reporting laws, and concerns about their implementation in a discriminatory manner and their potential to have the counter-productive effect of sometimes deterring some people from coming forward to talk about abuse or neglect to people in positions of authority.<sup>1</sup> Before significantly increasing the punishment for this offense, those concerns deserve examination.

For all these reasons, while we fully appreciate the laudable impetus behind this legislation, we urge the committee’s rejection of it. Thank you for considering our views.

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<sup>1</sup> Does Mandatory Reporting of Child Abuse Help or Hurt? A Colorado Task Force is Taking a Second Look,” Kristin Jones, Colorado Sun, 3/7/23, <https://coloradosun.com/2023/03/07/mandatory-reporting-child-abuse-task-force/>; “NYC Parents Rally Against Mandated Reporting Policies for Educators,” 2/17/23, Asher Lehrer-Small, <https://www.the74million.org/article/nyc-parents-rally-against-mandated-reporting-policies-for-educators/>