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ACLU OF RI POSITION: SUPPORT

TESTIMONY ON 23-H 5445, RELATING TO FAIR EMPLOYMENT PRACTICES March 1, 2023

The ACLU of RI strongly supports this bill, which would strengthen the state's Fair Employment Practices Act (FEPA) in a key way. It would improve the ability of all persons to obtain relief under the 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.

Specifically, the bill would amend RI General Laws §28-5-7(6) in order to 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 of FEPA that had been in effect and utilized by the R.I. Commission for Human Rights for years before the RI Supreme Court's decision in *Mancini v. City of Providence*, 155 A.3d 159 (R.I. 2017), which ruled that only the employer can be held liable.

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, much to the detriment of discrimination victims, that the individual supervisor can never be held accountable. This is wrong and unfair and should be corrected.

The ACLU urges passage of this important anti-discrimination legislation.