

ACLU OF RI POSITION: SUPPORT/AMEND

**TESTIMONY ON 23-H 5760,
AN ACT RELATING TO PROPERTY – FAIR CHANCE IN HOUSING ACT
March 2, 2023**

The ACLU of Rhode Island strongly supports this legislation, which recognizes the enormous barriers that justice-involved individuals often face in obtaining housing. The ability to secure housing is, of course, crucial in and of itself, but it is especially important for formerly incarcerated individuals seeking to reintegrate into their communities. Statistics bear out the difficulties that people with this background have in obtaining stable housing and avoiding homelessness. Therefore, any legislation that helps mitigate this problem is to be commended. By limiting the circumstances under which housing providers can demand information about a tenant’s past criminal history, and restricting the scope of the information that can be considered, this bill takes important steps in protecting this vulnerable population.

We are also deeply appreciative of some of the revisions that have been made to the bill since last year to address concerns raised by the ACLU and other advocates about possible weaknesses and ambiguities in its earlier drafting. However, we believe that the bill could still be clarified in a few ways, and we urge the committee’s consideration of them. They are briefly summarized below:

- We request that subsection §34-58-3(g) [Page 4, lines 1-4] be amended as follows:

(g) Nothing set forth in this chapter shall be construed to prohibit a housing provider from requiring an applicant to complete a housing application that includes any inquiries regarding an applicant’s criminal record after the conditional offer is provided or from making any oral or written inquiries regarding an applicant’s criminal record after the conditional offer is provided; however, any such inquiries shall be limited to those authorized pursuant to subsections (c) and (d) of this section.

EXPLANATION: Once a conditional offer of housing has been made, §34-58-3(c) and (d) limit the landlord’s review of the applicant’s criminal record to certain designated convictions. However, we are concerned that the language in subsection (g), by allowing a provider to make “any” inquiries about the applicant’s record could unintentionally be read in a way that undermines those restrictions. The amendment we suggest would prevent any such confusion.

- We would urge that §34-58-5(a) and (b) be amended as follows:

(a) A person claiming to be aggrieved pursuant to § 34-58-3 may file a complaint with the Rhode Island commission for human rights and seek judicial relief pursuant to §§ 34-37-5 and 34-37-6.

(b) Any housing provider who violates this chapter shall be ~~liable for a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for the first violation, five thousand dollars 20 (\$5,000) for the second violation, and ten thousand dollars (\$10,000) for each subsequent violation 21 collectible by the attorney general~~ subject to any and all remedies and penalties available under §§ 34-37-5 and 34-37-6.

EXPLANATION: The remedies section of the bill refers to the grievant filing a complaint with the commission for human rights, and the human rights commission taking action against a provider, but does not make clear that a victim can, after making use of the commission process, seek judicial relief on their own as the Fair Housing Practices Act (FHPA) allows. To avoid any ambiguity, we urge that subsection (a) be amended to make clear that an aggrieved party may seek such relief to the extent authorized by the specified provisions of the FHPA.

Regarding subsection (b), we note that it contains a penalty for violations of the law that is much less, and much more limited, than what is contained in FHPA. We are concerned that this penalty could be interpreted as taking the place of the FHPA's more encompassing remedies. However, we can think of no reason why they should be different. This amendment would make clear that victims of criminal record discrimination in housing can – just as with violations of the FHPA – be made whole by obtaining compensatory and punitive damages and attorneys' fees, and that the commission can seek the monetary fines established in the FHPA, which are higher than those provided in subsection (b). Strong civil remedies are, we believe, necessary as a deterrent to improper conduct.

We hope that these suggestions are helpful and will be incorporated as the bill gets considered. We once again express our strong support for this legislation, and thank you for your consideration of our views.