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ACLU OF RI POSITION: SUPPORT

TESTIMONY IN SUPPORT OF 21 – H 5880 AN ACT RELATING TO DELINQUENT AND DEPENDENT CHILDREN – PROCEEDINGS IN FAMILY COURT March 9, 2021

The ACLU is fully supportive of H 5880, which would prohibit the questioning of a juvenile who is suspected of criminal behavior without the presence of their parent or legal guardian or an attorney unless the juvenile has knowingly waived their rights.

Generally, juveniles are less able to understand their legal rights while being questioned. However, law enforcement proceeds as if they were well-informed adults who possess a full understanding of the weight of an interrogation. While the Fifth Amendment provides juveniles certain protections in this area, they are less than sufficient to guarantee that a juvenile will not be unfairly interrogated by police without the presence of a parent or guardian.

A case handled by our office a few years ago encapsulates the need for this type of legislation: an 8-year-old girl was removed by police from a school bus, taken alone to the police station without her parent's knowledge, and held and questioned at the station for several hours before being released. The girl was seized, detained, and interrogated based on unsubstantiated claims from another child that the girl was carrying "chemicals" in her backpack, and occurred even after the police found nothing illicit in her possession.

Although Rhode Island law protects children who are questioned while at school, and requires a guardian present, a child whose first police interaction occurs off campus has no such protection under the law.

In order to ensure clarity in the language of the bill, we would only propose an amendment such that provisions on page 2, lines 5-9 are combined into one section to read as the following:

(2) The court finds that, under the totality of the circumstances, the juvenile made a knowing, intelligent and voluntary waiver of their constitutional rights; and the juvenile misrepresented their age as being eighteen (18) years of age or older and the law enforcement official acted in good faith reliance on such representation in conducting the interrogation; or

We believe that this legislation is critical to ensure full due process for juveniles and urge its passage. Thank you for your consideration of our views.