



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 23-H 5895, RELATING TO CRIMINAL OFFENSES – THREATS AND EXTORTION March 16, 2023

This legislation would create the crime of “menacing,” which is defined in the bill as “knowing and willfully” conveying, “directly or indirectly, a verbal, written or physical threat to take the life of, or to inflict bodily harm upon, another person.” Because we believe this bill would make criminal a wide variety of hyperbolic comments regularly espoused by people in the heat of the moment – or not – we oppose the bill’s passage.

We believe that any attempt to criminalize allegedly threatening speech must have both subjective and objective requirements to prevent vast prosecutorial overreach. That is, the threat must be intended as such by the person and viewed as such by the alleged victim, and it is one that a reasonable person would view as actually being threatening and capable of execution.

Without those limitations, this bill would make criminals of people who – whether in the throes of anger, passion, or drunkenness – make threats that nobody would take seriously and that are uttered literally thousands of times a day. This bill’s broad language would thus give enormous and arbitrary authority to law enforcement to arrest individuals for rhetorical excesses.

In light of the overbroad nature of this new proposed offense, and the fact that laws already exist to deal with truly threatening behavior, we urge the committee to reject this legislation.