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ACLU OF RI POSITION: SUPPORT

TESTIMONY ON 24-S 2429, RELATING TO CRIMINAL OFFENSES – OBSCENE AND OBJECTIONABLE PUBLICATIONS AND SHOWS April 30, 2024

In conformance with U.S. Supreme Court rulings recognizing the need for limits on obscenity laws to avoid infringing on First Amendment rights, Rhode Island’s obscenity statutes do not apply to materials with “serious literary, artistic, political or scientific value.” This legislation would further clarify that there is also protection from liability for material that has serious educational and governmental value, along with materials maintained in a “bona fide school, museum, or public library.” The ACLU of Rhode Island strongly supports this legislation, especially at a time when we are seeing widespread attempts at censorship and book banning across the country.

While we believe that the First Amendment itself currently provides a check against obscenity prosecutions aimed at schools or libraries, or at material with serious educational or governmental value, we welcome these amendments to the law. They not only make that protection clearer, they also send a message to would-be censors that Rhode Island will not tolerate attacks on freedom of speech under the guise of protecting the public from “obscenity.”

Every day, it seems, modern-day Comstocks are seeking to ban provocative books and other material with a sexual content, especially in the school setting, that it is perfectly appropriate for minors to read. Particularly in light of the disturbing crusade against LGBTQ+-affirming literature that we are witnessing taking place in school libraries across the country, this bill is an important attempt to prevent that type of censorious mischief from occurring here.

It is our understanding that every other New England state has a statute in effect with language similar to that proposed by this legislation. It is time for Rhode Island to join them. Considering that a Westerly librarian was herself the target of an obscenity complaint last year,¹ there is nothing hypothetical in seeking to enshrine this protection into law.

For all the reasons mentioned above, we fully support this legislation and urge its passage.

¹See <https://www.bostonglobe.com/2022/09/23/metro/libraries-face-increased-attempts-ban-books/>