



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: SUPPORT

TESTIMONY IN SUPPORT OF 24 -S 2675, THE RHODE ISLAND CIVIL RIGHTS ENFORCEMENT ACT March 21, 2024

The ACLU of RI strongly supports passage of this legislation, creating the Rhode Island Civil Rights Enforcement Act, being considered by the Senate Judiciary Committee today.

This bill would provide long-overdue enforcement mechanisms missing from the constitutional protections enshrined in our State Constitution “guaranteeing” the State’s citizens and residents critically important civil rights and liberties, including freedom of speech, freedom of assembly, due process, freedom from unreasonable search and seizure, freedom from cruel and unusual punishment, equal protection of the laws and prohibiting government from discriminating on the basis of race, gender or handicap. Many of these guarantees were first included in the State Constitution in 1986 in recognition that it was not enough to count on the federal Constitution and federal enforcement to secure these fundamental rights for Rhode Islanders.

But in the years that have followed, these critical protections have been relegated to no more than aspirational lofty goals, because our highest state court has determined that they do not have any enforceable protection without a law that specifically says so. In legal terms, these rights are not “self-executing.” *See, e.g., Doe v. Brown Univ.*, 253 A.3d 389 (R.I. 2021) (finding unenforceable without specific legislation any of the protections of Article 1, Section 2, “guaranteeing” equal protection of the laws); *Bandoni v. State*, 715 A.2d 580 (R.I. 1998) (same as to Art. 1, Section 23, victims of crimes); *Ricci v. Rhode Island*, No. 120CV00543MSMPAS, 2023

WL 4686025 (D.R.I. July 21, 2023) (same as to unreasonable search and seizure, Art. 1, Section 6).

The proposed legislation will ensure that these fundamental rights are enforceable against government overreach, bringing Rhode Island in line with the federal government in securing, as a reality, the protections enshrined in our Constitution which, for now, exist only as an idea.

The proposed legislation is modeled after the existing federal standard, 42 USC §1983, but also avoids the inequities of judge-made exceptions that have provided loopholes for holding government accountable for egregious violations in the past.

In order to give our state Constitution's Declaration of Rights the meaning it deserves, the ACLU of RI strongly supports passage of this legislation.

Submitted by:
Lynette Labinger, Cooperating Attorney
ACLU of Rhode Island