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ACLU OF RI POSITION: AMEND

TESTIMONY ON 24-H 7281, AN ACT RELATING TO INSURANCE – EXAMINATIONS February 6, 2024

This bill establishes detailed cybersecurity requirements for domestic and foreign insurers, including various reporting requirements to address cybersecurity breach incidents.

Any legislation addressing this topic must, we believe, ensure that it contains vigorous protections for consumers from breaches of their information. We are not convinced this bill necessarily does so as currently written. If a licensee fails to take appropriate steps, as required by the legislation, to prevent cybersecurity breaches, or to implement the information security program established in the bill, or to properly investigate or report a serious cybersecurity event, it is unclear what remedies are available for such violations.

If the State does not have the resources to periodically monitor, review and take corrective action on these new regulatory requirements, then this detailed statute may have no real practical effect. It could leave victims of negligent or even bad faith cybersecurity breaches by insurers without an essential enforcement tool in light of the Department's limited enforcement resources. The lack of any clear and strong remedial measures leaves little incentive for insurers to strictly comply with this bill's mandates. We would therefore urge the addition of language authorizing private causes of action under the statute.

This bill also references insurers' needs to comply with provisions of the state's current identity theft protection law [See, e.g., Page 9, lines 30-33], but it is unclear how these two statutes ultimately mesh or how this bill seeks to make them mesh. It would be useful to clarify this.

In sum, we believe it would be unfortunate to require establishment by insurers of a detailed cybersecurity protocol to protect consumer information if it can be honored in the breach and leave victims with little recourse or remedies. Thank you in advance for your consideration of our views.