

ACLU OF RI POSITION: AMEND

**TESTIMONY ON 24-H 7945,
RELATING TO OCCUPATIONAL THERAPY LICENSURE COMPACTS
March 26, 2024**

The ACLU of Rhode Island appreciates the opportunity to provide testimony on this legislation which seeks to provide uniformity in the manner in which occupational therapists are licensed between different states. The legislation is lengthy, and though this should not be considered a comprehensive analysis, and we have no position on the general content of the legislation, we would like to provide brief commentary on a few provisions which we believe may warrant amendment.

- First, as the General Assembly acknowledged four years ago when it passed “fair chance licensing” legislation, the preclusion from licensure that a criminal record can have – especially those records which are outdated or irrelevant to the position being sought – can inappropriately bar otherwise qualified individuals from seeking or obtaining occupational and professional licenses. That statute ensures that an individual cannot be disqualified from licensure solely or in part because of their criminal record unless the crime relates directly to the occupation being sought. Such protections are critical to ensure that cycles of discrimination are not perpetuated against ex-offenders who are otherwise well-qualified for their chosen professions.

However, the bill does not reference that law nor provide employment protections similar to that statute. Instead, it just requires implementation of “procedures for considering the criminal history records of applicants.” (Page 4, lines 19-20) We would urge that these sections be clarified to ensure that reviews of criminal record checks will be conducted in accordance with the “fair chance” statute.

Finally in this regard, we note that the bill allows member states, in the course of conducting a criminal records check, to submit “biometric data.” (Page 4, lines 20-21) It is unclear to us how using undefined “biometric-based information” could provide insight into a criminal record that a fingerprint could not, and we find this language to be concerningly broad. We should not be setting a precedent that allows for the collection of more personal information than absolutely necessary to carry out the limited goals of a criminal record check, and urge that this language be removed prior to passage.

- Language in the bill appears to broadly authorize the sharing of private information, without any protections, with law enforcement agencies. (Page 11, line 15) We urge amendments that would set reasonable boundaries on the sharing of any information.
- Language in the bill providing for the adoption of “emergency” rules without public notice or input if it is necessary to “meet a deadline...established by federal law or rule” strikes us as problematic. As worded, nothing would prevent the Commission from creating the “emergency” itself by waiting too long to initiate rule-making proceedings in a timely manner that would have avoided the “emergency” in the first place. (Page 17, lines 5-6)
- The bill provides that “any laws in a participating state in conflict with this compact are superseded to the extent of the conflict.” (Page 20, lines 11-12) We again note our concerns about how this provision could impact, in particular, protections in place for justice-involved individuals seeking employment and how this language could inappropriately nullify critical, protective state-level practices.

We urge the committee to take these issues into account in considering and potentially revising this legislation. Thank you for your consideration.