



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 IN OPPOSITION TO 2024-H 7741,
AN ACT RELATING TO FRAUD AND FALSE DEALING
March 12, 2024**

The ACLU of RI is opposed to passage of this bill, enacting a new statute entitled “Filing of False Lien”, being considered by the House Judiciary Committee today.

The proposed legislation would make it a felony for any person to falsely file or record (or work with others to do so) an instrument, lien or encumbrance against the real or personal property of a judicial officer within the state unified judicial system. While the proposed legislation contains a requirement of “intent,” the “intent” can simply be that the filer “has reason to know” that the encumbrance is false, without necessarily any regard as to whether it is intended to impact the performance of the judicial officer. While this may be a laudable goal in the abstract, its import if adopted would provide an unnecessary additional special protection and at the same time chill Rhode Islanders who may have valid disputes with individuals who happen to be members of the judiciary from pursuing those claims out of fear of felony prosecution.

R.I General Laws §11-18-1 already encompasses this prohibition, and more, making it a misdemeanor to knowingly file a false, erroneous, or defective document intended to mislead the state or public officials or any city or town of which he or she is an official. In uniquely singling out a category of offense against judicial officers as a felony, and without requiring any direct connection with their official duties, the proposed legislation imposes additional grave consequences for individuals with disputes with judicial officers.

Judicial officers do not need this additional protection. Judicial officers acting in their judicial roles—unlike most public officials—already enjoy absolute immunity from civil suits for damages or other personal relief.

“Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, as this Court recognized when it adopted the doctrine, in [1872]...This immunity applies even when the judge is accused of acting maliciously and corruptly, and it ‘is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.’” *Pierson v. Ray*, 386 U.S. 547, 551 (1967) (citations omitted).

Matters involving the real or personal property of individuals who happen to be judicial officers are almost always matters that do *not* involve their official actions. Because, by its breadth, the proposed legislation could chill private individuals in the exercise of access to the courts and due process, the ACLU of Rhode Island opposes its passage.

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