

February 14, 2025

**EMAIL AND REGULAR MAIL**

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**RE: 2025-H 5223 -- THE RHODE ISLAND CIVIL RIGHTS ENFORCEMENT ACT**

Dear Attorney Richards,

This letter is prompted by your letter of February 11, 2025 addressed to Rep. Robert E. Craven, Sr., Chair of the House Judiciary Committee, sent on behalf of the Honorable Governor Daniel J. McKee relative to the above-cited pending legislation. Specifically, this letter is being sent to ask the Governor to reconsider his request that the House not act on the bill until the Court has addressed the question of law certified to the Rhode Island Supreme Court by the First Circuit Court of appeals in *Parente v. Lefebvre*, 122 F.4th 457 (1st Cir. 2024).

I am sending this letter both as the drafter of H 5223 and a principal attorney of record on behalf of the plaintiff in the *Parente* case, as there appears to be a misunderstanding by the Administration either as to the purpose and effect of the legislation or the subject of the certified question, or both.

The certified question in *Parente* seeks to determine whether the State of Rhode Island is immune from liability for claims brought under R.I. Gen. Laws § 42-112-1, *et. seq.* based on the doctrine of sovereign immunity. While that chapter is entitled “The Civil Rights Act of 1990,” it is modeled after the federal statute 42 U.S.C. § 1981 and only applies to discrimination based on “race, color, religion, sex, disability, age, or country of ancestral origin.”

The proposed Rhode Island Civil Rights Enforcement Act, H 5223, is modeled after 42 U.S.C. § 1983 and imposes liability on the State of Rhode Island, any state of the United States, the United States, or any foreign nation state, including any political or administrative subdivision of any of the foregoing entities, *for any violation of the “Constitution and laws” of the State of Rhode Island.*<sup>1</sup> The scope of the bill is far broader than R.I. Gen. Laws § 42-112-1, *et. seq.* as, among other things, it provides a mechanism to enforce and provide remedies for a violation of *any* rights protected under the Rhode Island Constitution, including, for example, freedom of speech, the press, religion, and assembly, freedom from cruel and unusual punishment, freedom from unreasonable search and seizure, the right to due process of law, and the right to petition the government.<sup>2</sup>

The dual purpose of H 5223 is to ensure that 1) consistent with the admonition in Article I, Section 5 of the Constitution of the State of Rhode Island, every right shall have a remedy; and, 2) as between an innocent party whose rights have been violated by acts and/or omissions of a governmental entity, it is the governmental entity and/or agents thereof that shall bear the cost of any harm caused by such violation of rights, not the innocent party.

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<sup>1</sup> The quoted term is the same used in the federal enforcement statute, 42 U.S.C. § 1983.

<sup>2</sup> The necessity for this bill is a series of state and federal court decisions over the past twenty-seven (27) years that have rendered nearly every constitutional right protected under the state constitution unenforceable because they were not deemed to be “self-executing.”

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For the forgoing reasons, I respectfully request that the Governor reconsider and rescind his request to pause action on H 5223 and that he join the sponsors of the bill in supporting passage of this legislation, which will ensure that our Rhode Island Constitutional rights are no longer mere suggestions or aspirational ideals and that the will of the *People* that enacted these protections in state constitutional conventions and subsequent referenda no longer be thwarted.<sup>3</sup>

If you have any questions regarding the foregoing, please feel free to contact the undersigned.

Very truly yours,



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RAS/ras

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<sup>3</sup> Your letter asserts that the Administration “fully supports guaranteeing the civil rights of all Rhode Islanders;” however, the Attorney General is advocating in *Parente* that the State of Rhode Island is immune from liability for violations of The Civil Rights Act of 1990, and therefore may violate those protections with impunity. Moreover, based on the normal length of time for disposition of cases before the Rhode Island Supreme Court, your letter is urging the General Assembly to delay for the better part of a year taking action to enact a mechanism to enforce and provide remedies for violations of our state constitutional rights, during which time our state constitutional rights would continue to be nothing more than mere aspirations.