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ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 24-H 8208, RELATING TO TOWNS AND CITIES -- ORDINANCES May 15, 2024

The ACLU of Rhode Island opposes this bill, which would allow municipalities to increase from \$500 to \$1,000 the penalties they could impose for violation of local ordinances or regulations.

This seemingly minor change is actually quite dramatic in its consequences. It would formally turn a large number of people charged with minor misconduct into criminals.

That is because, under Rhode Island law, an offense punishable by a fine of more than \$500 and less than \$1,000 is a misdemeanor, while one punishable by a fine of not more than \$500 is considered a “violation.” R.I.G.L. § 11-1-2. The distinction is critical.

Under state law, “Conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.” R.I.G.L. § 11-1-2.1. In other words, a “violation” is not considered a criminal offense, but is more akin to, say, a civil traffic violation. As a result, if a person is asked on an application form if they have a criminal record or have ever been convicted of a crime, a person who has only been found guilty of a violation can answer “no.” But if they are convicted of an offense that carries a potential fine of \$1,000, they have committed a misdemeanor – a criminal offense – and would have to acknowledge that. As committee members can appreciate, the collateral consequences that flow from a criminal record can be enormous.

There are also serious consequences even if the increased fine is part of an ordinance that also carries a maximum 30-day prison sentence as currently authorized by the statute. Presently, a \$500 penalty with a potential 30-day sentence makes these offenses a “petty misdemeanor.” By increasing the fine to \$1,000, the petty misdemeanor becomes a misdemeanor, and some statutes provide enhanced penalties for individuals convicted of misdemeanors that would not be applicable to a petty misdemeanor. *See, e.g., State v. Martini*, 860 A.2d 689 (R.I. 2004).

In light of the dramatic impact of the increased penalty proposed by this bill, we urge its rejection, however minor and innocuous it might seem at first glance.