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ACLU OF RHODE ISLAND COMMENTARY ON
218-RICR-70-00-2 AND 218-RICR-70-00-7
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The ACLU of Rhode Island appreciates the opportunity to provide commentary on 218-RICR-70-00-2 and 218-RICR-70-00-7, which provide guidelines for the operation of childcare services. Both regulations make some minor amendments to provisions dealing with criminal record checks, but we feel that this would be an appropriate and opportune time for the Department to more thoroughly revisit the language within these sections that maintains extremely broad and potentially discriminatory criminal background disqualification standards.

Along with a number of other advocacy groups, the ACLU has long been concerned about the barriers that broad-based criminal record check requirements can have on an individual's ability to obtain occupational licenses in Rhode Island. All too often, an individual's criminal record, even if in the distant past and unrelated to the license being sought, can inappropriately prevent them from entering an employment field for which they may be eminently qualified.

While we appreciate that the policies allow for the appeal of decisions regarding licensure, we believe that the regulations should be narrowed to prevent unjust disqualification in the first place.

These regulations – despite already referring to a broad list of automatically disqualifying offenses established in a separate regulation – include an additional provision which allows for a conviction of *any* offense to be reviewed and determined whether it would impact the "fitness and suitability of the applicant to provide child care." (Sections 2.2.1(C)(2)(b) and 7.2.1(C)(2)(b)) This is so broad that it provides the authority to deny employment to an individual as a result of nearly

any criminal record history. Within the scope of this vague provision, the notion of delineated "disqualifying information" becomes essentially meaningless and encourages widespread discrimination against formerly incarcerated jobseekers. Further, it undermines the privacy rights of applicants that the limitations on "disqualifying information" were designed to protect.

A broad standard for denial of a license can only discourage some individuals from applying for a license in the first place. This policy directly affects, for example, an individual with a fifteen-year-old petty theft misdemeanor and no other convictions, who could be denied a license and required to overturn this denial through a vaguely referenced but presumptively arduous appeal process to obtain an occupational license. Use of this standard is made even more unjust by the fact that the regulations appear to allow DHS to deny a license to a person based on a *household member's* past criminal history.

Access to reliable, consistent, and meaningful work is a critical component of community reintegration and rehabilitation for those who have been justice-involved. We urge the Department to further revise this particular section which functionally negates any limitations that the agency has on the ability to view an applicant's criminal record and may unjustly prevent an individual from entering a field for which they may be otherwise wholly qualified.

Thank you for your consideration of these important matters. We appreciate your attention to our views, and trust that you will give them your careful consideration. If the suggestions we have made are not adopted, we request, pursuant to R.I.G.L. §42-35-2.6, a statement of the reasons for not accepting these arguments. Thank you.

Submitted by: Hannah Stern, Policy Associate