

NEW ON-LINE VOTER REGISTRATION LAW SIGNED; PROTECTS ACCESS FOR VOTERS WITH DISABILITIES

The national ACLU is hailing Rhode Island's new online voter registration law as "a voting precedent every state should follow." Although Rhode Island is the thirty-fifth state in the nation to authorize online voter registration – on its own an extremely important piece of legislation for voting rights – the new law includes first-in-the-nation protections for voters with disabilities.

Introduced on behalf of Secretary of State Nellie Gorbea, and signed into law by Governor Gina Raimondo in April, the online voter registration law ensures that voters can easily register to vote or update their registration from their home computer.



Photo Credit: LeeAnn Byrne

As result, fewer voters will find themselves shut out of voting because they could not update their voter registration in time. As more and more of our business is conducted online, this common sense legislation makes it easy for voters – particularly transient voters like students – to keep their information accurate, and also provides a more convenient way for non-voters to register.

Yet according to a report issued by the ACLU and the Center for Accessible Technology in 2015, only California had a voter registration site that was fully accessible to individuals with disabilities, and many states failed to meet even basic accessibility standards. Voters who are blind, for instance, or voters who have disabilities preventing them from using a mouse or keyboard, may find such sites difficult to navigate. Voters with disabilities thus face a higher burden in making use of a system designed to remove voting barriers.

The ACLU proposed the addition of language to the bill that would address this problem, and the Secretary of State supported its inclusion. Among other things, the new law requires experts on website disability access to be included in the development of the site and to verify that it is useable for people with disabilities; requires the site to follow certain accessibility standards set by the World Wide Web Consortium; and mandates full compliance with the Americans with Disabilities Act.

Both the national ACLU and the ACLU of Rhode Island applauded the Secretary of State and the bill's sponsors for including this language. The ACLU is hopeful that the legislation will serve as a model for other states that adopt new electronic voter registration laws, and will encourage states with existing laws to expand access for voters with disabilities.

LOOK INSIDE

Cranston Panhandling Law Victory	2
Response to Caleb Chafee APRA Case	3
Bills Threatening Civil Liberties	4
Free Public Education Vindicated	6

FROM THE DESK OF THE EXECUTIVE DIRECTOR

Rhode Island was the 49th state in the country to enact an open records law, and that reluctant show of support for transparency in government still demonstrates itself in numerous ways.

Unfortunately, when even the courts fail to put teeth into the law's implementation, the public's right to know is bound to suffer significantly. And that is certainly the case with the Rhode Island Supreme Court's recent decision in the Caleb Chafee open records lawsuit (see page 3).

By establishing a standard that generally requires the media and the public to have evidence of wrongdoing before they can gain access to records that may document the very wrongdoing reporters are sniffing out, the Court's decision has put open records advocates in a Catch-22 bind of enormous consequence.

For decades, the ACLU has strongly supported both the individual's right to privacy and the public's right to know. This ruling tipped the scales the wrong way, and highlights the need for a stronger open records law to allow the public more critical oversight of the state's law enforcement agencies. In the months ahead, and with your support, we hope to work with like-minded groups to reach that crucial goal.

-- Steven Brown



**ACLU Foundation
of Rhode Island**
128 Dorrance St., Ste. 220
Providence, RI 02903
P: (401) 831-7171
F: (401) 831-7175
www.riaclu.org
info@riaclu.org

ACLU SETTLES SUIT OVER CRANSTON ORDINANCE BARRING ROADSIDE SOLICITATIONS

In an important victory against the criminalization of poverty, the ACLU of Rhode Island has favorably settled a lawsuit challenging a Cranston municipal ordinance that barred the solicitation of donations from motorists. In a consent judgment approved by U.S. District Judge John McConnell, Jr., the City acknowledged that the ordinance violated the free speech rights of Michael Monteiro, who is disabled and supplements his disability payments by soliciting donations.

The lawsuit was filed after a Cranston police officer in June 2015 saw Monteiro soliciting donations, as he occasionally did, by standing on Plainfield Pike holding the sign pictured. The officer wrote Monteiro a summons for violating the ordinance, and further warned Monteiro he would be arrested if he returned to solicit donations. While a Municipal Court Judge dismissed the charge – saving Monteiro from a fine of up to \$200 – the warning to stay away from the area stood.



The suit, filed last December by ACLU volunteer attorney Marc Gursky, argued that the ordinance was unconstitutionally vague, infringed on free speech rights, and was enforced selectively, since “panhandlers” trying to make ends meet were punished, but other individuals and groups fundraising for various causes were allowed to solicit from motorists without harassment. Under the consent judgment, the ordinance was declared unconstitutional, and monetary damages were awarded to Monteiro for the violation of his rights.

This marks the second time in recent months that municipalities have acknowledged such panhandling ordinances are unconstitutional and unenforceable. The City of Providence recently agreed to halt enforcement of its panhandling ordinance after threat of an ACLU suit, although at least one City Council member has pressured the City to reverse this decision. A similar ordinance governing solicitation in Pawtucket is currently under examination by that City.

The ACLU of Rhode Island wishes the best of luck to our former Development and Communications Associate, Johanna Kaiser, as she joins the team at Planned Parenthood of Massachusetts.

We also wish to thank Debbie Flitman for all her help in the office over the past months.

We couldn't have done our work without either of you!

ACLU CALLS FOR LEGISLATIVE RESPONSE TO SUPREME COURT RULING IN CALEB CHAFEE CASE

Open government in Rhode Island suffered a setback when the Rhode Island Supreme Court ruled in April that the *Providence Journal* was not entitled to access any of the investigatory documents related to the arrest of Caleb Chafee, the son of then-Governor Lincoln Chafee, in 2012. Chafee pled nolo to a charge of violating the state's "social host" law governing underage drinking.

The ACLU has for decades advocated both for the individual's right to privacy and the public's right to know, but the Supreme Court's ruling, the ACLU argued, failed to give sufficient weight to the important public interest in monitoring police investigations of high-profile cases. In denying the newspaper access to any of the requested records, the Court stated that the sheer number of documents that exist but were withheld demonstrated that "a thorough investigation was performed," and that journalists need to provide evidence that wrongdoing occurred before they are entitled to records that might infringe on privacy rights. The ACLU believes this standard creates an unduly high legal barrier, since the goal of many open records requests is precisely to determine potential wrongdoing, particularly in high-profile cases like this one.

In response to the court decision, the ACLU and other press and open government groups have called for reforms to the state's open records law, the Access to Public Records Act, to address this and other issues impeding the people's right to know.

ACLU AGREES TO DEFEND WARWICK MEDIA OUTLETS THREATENED WITH LIBEL SUIT

The ACLU has agreed to provide legal representation to the *Warwick Post* and *Warwick Beacon* after both outlets were threatened with a defamation suit if they wrote about the contents of a public document.

The threat came after they were granted access by the Attorney General to a document examining for the Warwick School Committee how school administrators handled accusations of sexual misconduct made against a junior high school science teacher. Warwick School Department outgoing director of human resources Rosemary Healey, through her attorney Jeffrey Sowa, warned the Warwick media outlets they would "not be insulated from liability" if they wrote about the report, and that they should "cease and desist from publishing any matters relating to" Healey.

Sowa made the threat and called the report "defamatory and malicious" even as he acknowledged that Healey had not yet even had "the opportunity to substantively review" the document.

The *Post* and the *Beacon* welcomed the ACLU's offer of legal assistance. A day after the ACLU's public announcement of support, however, Sowa retracted his comments, suggesting he never really meant to sue.

3 ADVOCATES FILE COMPLAINT AGAINST PROVIDENCE FOR FAILING TO PROVIDE SERVICES TO ENGLISH LANGUAGE LEARNERS

In a formal complaint to the state Department of Education, the ACLU and Rhode Island Legal Services have charged the Providence School District with violating various laws and regulations designed to provide appropriate educational services to students who are also English Language Learners (ELL).

Among other things, the complaint alleges that families of ELL students are not notified of their rights in their native language, that schools force parents to waive their children's rights to ELL instruction as a condition of providing them special education placement, and that the district fails to meet various state regulatory standards for ELL instruction.

The complaint was filed for three parents and their children, and on behalf of all other similarly situated school children in the district. Filed by RILS attorneys Veronika Kot and Janne Reisch and ACLU volunteer attorney Ellen Saideman, the complaint asks RIDE to take a number of steps to address the numerous violations, including the institution of district-wide staff training, and notification to families deprived of their rights that they are entitled to compensatory services.

2016 LEGISLATIVE PREVIEW: ANTI-CIVIL LIBERTIES LEGISLATION

The 2016 General Assembly session is more than halfway done, and the ACLU has already weighed in on hundreds of bills. Last month, we highlighted some of the positive civil liberties legislation under consideration; this month, we look at bills that potentially pose great threats to your rights. However, with many more weeks to go, the worst of the legislation may have yet to be introduced. For updates on the bills summarized below and others of civil liberties concern, visit our website at www.riaclu.org.

Abortion

Abortion Insurance (H 7760, S 2098)

The General Assembly is once again considering a spate of anti-abortion legislation. Among them is legislation barring women who get an insurance plan tax credit from buying a plan that includes any abortion coverage beyond life, rape, and incest – there is no exception for women’s health. Forcing women to instead buy a separate abortion insurance rider effectively blocks many who are struggling to make ends meet from getting the care they need, and requires them to jump through hoops not required for any other medical procedure.

Criminal Justice

Administrative Subpoenas (H 7542, S 2631)

In 2011, the Rhode Island General Assembly passed a law allowing law enforcement to obtain an individual’s Internet subscriber information from Internet service providers without a warrant; in 2016, the General Assembly is considering expanding the offenses for which this would be allowed. The bill would give the police unilateral authority, without court review, to obtain Internet subscriber information for new crimes including “online impersonation,” a law that already raises serious First Amendment concerns. A warrant places an important check on police investigations, ensuring that a neutral party evaluates the strength of law enforcement’s probable cause before allowing a person’s technological privacy to be invaded.

Homeless Sex Offenders (S 2319)

Following passage last year of legislation (currently being challenged in court by the ACLU) to prohibit level III sex offenders from living within 1000 feet of a school, the state saw an increase in the number of potentially homeless sex offenders making use of the only shelter in the state that is not affected by the residency law. This year, the General Assembly is weighing a bill by legislators representing the district where the shelter is located to further target sex offenders and the shelter staff members who aid

them. This legislation requires homeless sex offenders – who are already required to register – to disclose their offender status to the homeless shelter. The legislation then requires shelter workers to contact law enforcement within an hour and disclose the name and information of every offender in the shelter. Shelter workers who do not comply – including social workers who are prohibited from doing so under the Social Work Code of Ethics – could face up to five years in prison.

Human Trafficking (H 7527, S 2413)

Language in legislation to combat human trafficking carries serious unintended consequences, including the further victimization of individuals caught up in trafficking. The bill provides immunity to trafficked minors only if they state in their defense that they were a trafficking victim – a statement many victims are not ready to make when they are arrested. Other parts of the legislation raise First Amendment concerns, and penalize behavior that was not criminal at the time it was conducted. The legislation also would turn soliciting prostitution from a misdemeanor into a felony, imposing extremely harsh penalties on individuals engaged in consensual sexual activity.

Unauthorized Computer Access (H 7406, S 2584)

Whistleblowers or spouses who guess a computer password could soon serve up to five years in prison. Part of a package of legislation from the Attorney General’s office aimed at computer crimes is a broadly worded bill addressing unauthorized computer access. The breadth of the language treats whistleblowers and overzealous spouses the same as malicious hackers, subjecting them to felony penalties.

Frustrated with the legislation you see here? Want to know how you can help? Email us at policy@riaclu.org for information on how you can help advocate for your rights.

Due Process

Overdue Court Fees (H 7830, S 2505)

Individuals owing overdue court fees may soon find their names on a public list shaming scofflaws -- even if the fees are minor, decades old, or even inaccurate -- without prior notification. This legislation aims to repeal a requirement that the court notify individuals with outstanding fees prior to placing their name on a public web site. Instead, many people owing fees -- or who court records erroneously list as owing fees -- may find themselves humiliated when a family member or potential employer Googles their name and finds them labeled as a deadbeat by the State of Rhode Island.

Free Speech

Revenge Porn (H 7537, S 2540)

The General Assembly is once again attempting to pass legislation that would make the simple sharing online of certain images a crime. Under the bill, the retweeting or reposting online of a sexually explicit image without the direct consent of the person in the image would be a crime -- even if the picture was initially taken and shared consensually.

Privacy

Health Information Exchange (H 7866, S 2898)

When Rhode Island created its Health Information Exchange in 2008, it did so with explicit promises that its goal was to coordinate medical care and strictly limit how patients' medical information in the exchange could be shared. However, this legislation greatly expands the entities that would have access to the exchange, including granting access to broadly defined health plans for purposes totally unrelated to direct medical care.

Warrantless Prescription Access (H 7518, S 2713)

Dangerous legislation introduced by the Attorney General may soon grant police access to your private prescription information without a warrant. Presently, law enforcement must obtain a warrant to access the state's Prescription Drug Monitoring Database, which houses records of virtually every scheduled prescription filled in Rhode Island. This legislation removes that requirement, allowing the Attorney General to engage in widespread fishing expeditions into patients' records. A House committee has already approved passage of the bill.

Rights of Ex-Offenders

Criminal Record Checks (several)

The General Assembly is continuing its recent pattern of imposing pre-employment criminal background check requirements on a growing number of professions. Bills under consideration this year include one to require criminal record checks for employees of any business that involves any contact with children, and another allowing houses of worship to background check employees and volunteers. This pattern continues to undermine the state's "Ban the Box" legislation -- instead of restricting inquiries into a person's past, these bills tell applicants with criminal records they shouldn't even bother applying for a variety of occupations.

The "War on Drugs"

Juvenile Marijuana (H 7362, S 2544)

When Rhode Island decriminalized marijuana just a few years ago, it was designed to keep youth possessing small amounts of marijuana out of jail and away from the lifetime of consequences a drug conviction can bring. This legislation, submitted on behalf of the Attorney General, undermines that effort by placing juveniles caught with marijuana back in front of a judge, who can impose any number of requirements upon the juvenile and incarcerate them when they do not follow through.

Medical Marijuana Budget Amendment (H 7454 - Article 14)

An article in the Governor's budget threatens the state's medical marijuana program and the ability of patients and cardholders to afford necessary medication. Among other provisions, the article imposes a tax of between \$150 and \$350 for each plant grown, reduces the number of plants each patient can grow, and eliminates the ability for patients or caregivers to provide their excess marijuana to other patients.



COURT RULING BARS SCHOOL DISTRICT FROM CHARGING STUDENTS TO ATTEND SUMMER SCHOOL

The ACLU and Rhode Island Legal Services are celebrating a victory for students after the Rhode Island Superior Court in March held that the Cumberland School District could not charge a student \$700 to attend summer school. The ruling overturned a 2014 decision by former Department of Education Commissioner Deborah Gist.

Gist held that the district could charge fees because summer school did not constitute a core element of education. Superior Court Judge William Carnes, Jr., agreed with the perspective of the ACLU and other education advocates who had, in 2014, argued that requiring students to pay to attend summer school undermined the constitutional guarantee of a free and equal public education to all of Rhode Island's children.

Judge Carnes noted: "Assuming that instead of attending summer school, [the student] had opted to repeat the ninth grade, it is beyond dispute that the school could not have charged him tuition for that additional year of schooling. Instead, however, [the student] opted to recover his required credits by attending summer school and, in doing so, he was charged a fee for his attendance. The fact that one option would have been free and the other option incurred a fee necessarily leads to an absurd result."

ACLU COMMENDS CUMBERLAND SCHOOL COMMITTEE FOR STATE'S FIRST TRANSGENDER STUDENT POLICY

The ACLU applauded the Cumberland School Committee's passage of the state's first policy detailing the rights of transgender students.

Among other protections, the policy ensures that trans students in Cumberland have the right to use the bathroom of the gender with which they identify, the right to play sports along with other children of gender with which they identify, and the right to be called by the name of their choice. The policy also includes significant privacy protections for trans children, including prohibitions on revealing their status and a procedure for amending their name on educational records.

In a letter to the School Committee urging approval of the policy, the ACLU noted: "School districts nationwide are making progress in recognizing the needs of transgender students, but for many gender non-conforming children the process is painfully – and dangerously – slow."

Cumberland is the first district in the state to adopt such a policy. The town of Westerly attempted to approve a similar policy in 2014, but efforts were abandoned after community outcry. The ACLU and others have been pushing for adoption of a statewide policy.

NARRAGANSETT CONSIDERS EXPANSION OF UNCONSTITUTIONAL STUDENT HOUSING ORDINANCE

In March, the ACLU weighed in on a proposal by the Town of Narragansett to revamp a housing ordinance, aimed at limiting the number of students that can live together, that was struck down by the courts following an ACLU lawsuit more than twenty years ago. (A similar ordinance was recently passed by the City of Providence, and is the subject of an active ACLU lawsuit.)

The proposed ordinance prohibits more than four unrelated tenants from living together in a house. This is only a mild adjustment from the previous ordinance, which banned three unrelated people from living together. In 1994, a Superior Court judge struck down that earlier ordinance, noting: "It is a strange – and unconstitutional – ordinance indeed that would permit the Hatfields and the McCoys to live in a residential zone while barring four scholars from the University of Rhode Island from sharing an apartment on the same street." The ACLU believes the legal issues present in that case remain in the new proposed ordinance.

In a letter to the Town Council, the ACLU further argued that "limiting the use of property in this way can have a significant and adverse financial impact on innocent, hard-working students, by making rental housing more difficult, and consequently more expensive, for them to obtain. We believe that the proposal's focus on the kinship status of renters is unfair and extremely unlikely to help resolve any of the legitimate concerns prompting calls for action in the first place." The ordinance remains under consideration.

ACLU QUESTIONS VALIDITY OF “HUMAN TRAFFICKING” STING

The ACLU criticized the Cranston Police Department and other law enforcement agencies for engaging in a purported “human trafficking” sting that instead primarily served to humiliate and penalize consenting adults engaged in sexual conduct for a fee.

The ACLU noted that the operation, supposedly aimed at “targeting human traffickers, specifically those victimizing juveniles,” instead netted 28 adult arrests for prostitution and procuring sexual conduct for a fee, and only one arrest each for trafficking and pandering.

The ACLU further noted: “Conflating prostitution with trafficking does nothing to help the trafficking victims who remain ensnared while consenting adults are pursued and arrested. We commend the organizations in the state actively working to provide social and other support services to sex workers who need assistance. But we emphatically reject the notion that the only way these individuals can be helped is if they are first put into handcuffs.”

The police department has downplayed the 14 arrests of women for prostitution during the sting, and the ACLU is investigating the sting further.

MUNICIPAL ORDINANCES PUTS MEDICAL MARIJUANA PATIENTS AT RISK

In recent months, four separate towns have considered municipal restrictions on medical marijuana that undermine the state’s medical marijuana law and could leave patients and caregivers unable to participate in the program.

Responding favorably to ACLU objections, Bristol and West Greenwich chose to leave patients and caregivers alone and instead focus on regulating compassion centers. However, the town of Tiverton has approved a medical marijuana ordinance that leaves Tiverton residents who need medical marijuana uneasy about their future.

Among other restrictions, the ordinance prohibits growing medical marijuana in any location except private residences. This would preclude co-ops, compassion centers, marijuana “stores” and cultivation centers, leaving many patients without a reliable source of medication.

The ACLU cautioned the Town Council that many provisions of the ordinance are in conflict with the state’s medical marijuana law, and that the ordinance will cause harm to patients while doing little to protect the Town. A fourth community, Westerly, is still debating its proposed ordinance.

PROVIDENCE POLICE DEPARTMENT BEGINS PILOT BODY CAMERA PROGRAM

The Providence Police Department announced in April the start of two thirty-day pilot body camera programs. In 2015, the ACLU sent a letter to all police departments in the state to preemptively address issues regarding the need for comprehensive policies to be in place, prior to the start of any body camera program. The letter provided suggestions on such matters as how and when the cameras should be used and the storage and release of body camera footage.

The ACLU provided supplemental concerns to the Providence Police Department prior to the announcement of the City’s pilot program. While the Department heeded some of the ACLU’s comments, a number of concerns remain with the adopted policy. They include the broad discretion given police on when to turn on the cameras, the lack of ability for some members of the public to have the cameras temporarily turned off, and virtually no language guaranteeing public release of body camera footage to the public.

We’re Hiring!

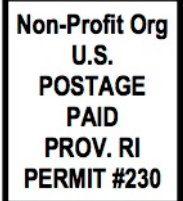
Are you passionate about protecting civil liberties and working toward a better Rhode Island? Do you have strong communications and fundraising skills? We might be the place for you!

The ACLU of Rhode Island is looking for a Development and Communications Associate to join our team.

For more information, including job details and how to apply, visit our website, at www.riaclu.org.

American Civil Liberties Union
Foundation of Rhode Island
128 Dorrance Street, Suite 220
Providence, RI 02903

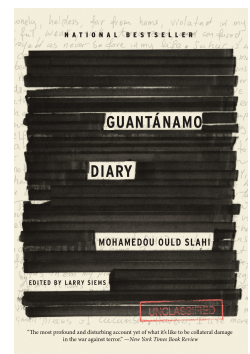
RETURN SERVICE REQUESTED



UPCOMING EVENTS

Book Signing: "Guantánamo Diary"
Thursday, May 5th at 7pm
Books on the Square - 471 Angell St. Providence

"Guantánamo Diary" is the personal account of Mohamedou Ould Slahi's many years of incarceration at the Guantánamo Bay prison camp. Join the ACLU, Books on the Square, and "Guantánamo Diary" editor Larry Siems for a discussion and signing of this important book.



Rhode Island Pride Fest 2016
June 18, 2016

This year, we celebrate the 40th anniversary of the landmark decision in "Toward a Gayer Bicentennial Committee v. McQueeney." In 1976, the ACLU successfully sued the City of Providence after Providence police denied a permit for what would become the state's first gay pride parade. 40 years later, the ACLU is still at Pride! Join us in celebrating Pride and the anniversary of this important lawsuit.

Interested in helping at Pride? Contact our office at 831-7171 to find out how you can volunteer.