

## COURT OVERTURNS NARRAGANSETT FIRE DISTRICT'S DENIAL OF RIGHT TO VOTE TO NON-PROPERTY OWNERS



Photo courtesy of Steve Ahlquist, UpriseRI.

In a victory for voting rights at a time when new barriers to exercise the franchise are spreading across the country, a R.I. Superior Court judge ruled unconstitutional a policy of the Bonnet Shores Fire District (BSFD) in Narragansett that barred residents from voting if they own less than \$400 of property in the district. That same policy allows thousands of non-resident beach cabana owners – including owners of sixteen square feet “bathroom units” – to vote.

The ACLU had filed a “friend of the court” brief in support of the residents. The brief labeled BSFD’s restriction on the right to vote to property owners “a throwback to earlier, long-discredited notions of

who is entitled to participate in our state and local government.”

In light of the favorable court ruling, the ACLU is reviewing the charters of other fire districts and may take legal action against those imposing similar voting restrictions on non-property-owning residents.

In rejecting the BSFD’s argument that it exercised only “narrow” powers for a beach community to justify denying voting rights to some residents, the court cited the District’s various taxing powers, provision of sanitation services, and enactment of ordinances governing such activities as parking, loitering and consuming alcoholic beverages in public that included monetary fines. Among those excluded from voting were individuals who rent property in the district and spouses or adult children of title holders.

The judge stated: “The Court cannot conceive of any circumstances in which the BSFD could permissibly use the property ownership requirement to prevent otherwise qualified residents from voting in BSFD elections. The unavoidable conclusion is that the BSFD Charter’s denial of district residents’ right to vote on the basis of property ownership is unconstitutional.”

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-Judge Sarah Taft-Carter

### ADVOCACY 101 TOOLKIT

Want to learn how to lobby effectively, contact your legislators, and advocate for the civil liberties issues that you care about? Visit [www.riaclu.org/legislation](http://www.riaclu.org/legislation) and click on our ADVOCACY 101 GUIDE to learn more.

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## FROM THE DESK OF THE EXECUTIVE DIRECTOR

With the 2022 General Assembly session now in full swing, I wanted to take this opportunity to highlight the broad array of proactive legislation we are working on – some of which is summarized on the pages of this issue – including voting rights, racial profiling, discriminatory school discipline practices, expansive police surveillance, and much more.

In some instances, we have been working as part of broad coalitions for many years on these issues to promote the civil liberties and civil rights of all Rhode Islanders. Sometimes change is slow, but we are committed to the long haul to get these reforms enacted into law.

None of this critical work would be possible without the support of members like you. If you are looking for ways to expand your support, here are a few ideas:

- Sign up to make a recurring contribution (see the back page)
- Follow the steps in our advocacy toolkit and lobby public officials on the issues of most concern to you
- Tell your friends and family about our work

In any event, I hope we will continue to earn your support as we fight for the rights of all – at the State House, in the courts and behind the scenes. Thank you, as always.

-- Steven Brown

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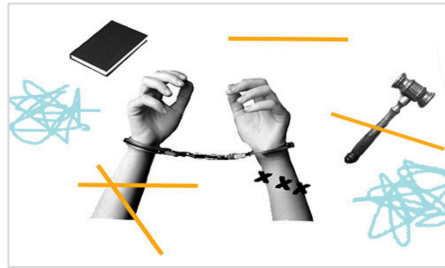
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## ACLU SUES DEPARTMENT OF CORRECTIONS OVER UNLAWFUL INCARCERATION OF JUVENILE OFFENDERS

The ACLU of Rhode Island has filed a series of lawsuits in R.I. Superior Court, claiming that the R.I. Department of Corrections (DOC) is unlawfully keeping in prison individuals who were convicted of crimes committed when they were juveniles or very young adults. The legal action claims that the DOC is violating a law enacted by the General Assembly last year that targeted lengthy sentences meted out to young offenders.



The new statute, colloquially known as “Mario’s Law,” provides that “any person sentenced for any offense prior to his or her twenty-second birthday” is eligible for parole after serving twenty years. The law was passed in recognition of the fact that, as the U.S. Supreme Court has noted, “even when they commit terrible crimes,” juveniles lack the culpability of adults due to their immaturity and underdeveloped sense of responsibility.

Despite the statute’s clear wording, the DOC has taken the position that any person given consecutive sentences as a juvenile must serve 20 years for their first offense and then serve additional time for their other offense before being eligible for release.

The petitions for post-conviction relief, filed on behalf of three youthful offenders by ACLU cooperating attorneys Lisa Holley, Sonja Deyoe and Lynette Labinger, charge that the DOC’s interpretation of the law is “absurd and illogical, contrary to the express terms of the Act and effectively operates to nullify its terms and defeat its purposes.”

The DOC’s interpretation affects many other young offenders, including Mario Monteiro, whose continued incarceration for more than two decades, despite extensive proof of his rehabilitation since his criminal conduct as a juvenile, was an impetus for passage of the new statute aimed at giving youthful offenders a second chance after two decades in prison.



Mario Monteiro

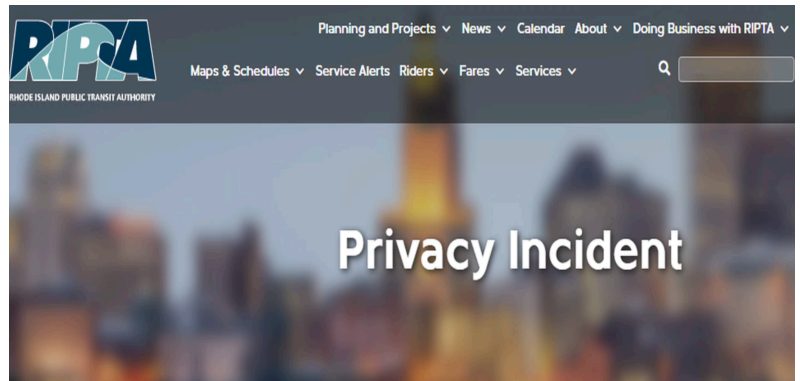
## **ACLU PRESSES FOR ANSWERS FROM RIPTA ABOUT BREACH OF PERSONAL HEALTH DATA; CONSIDERS LITIGATION**

Following the receipt of dozens of complaints from affected Rhode Islanders, the ACLU of RI has demanded answers from the RI Public Transit Authority (RIPTA) regarding an August 2021 data breach at the agency that compromised the Social Security numbers and private health care information of thousands of individuals who have no apparent connection to the agency.

In a letter to RIPTA, the ACLU insisted on answers as to why the agency had this information in the first place, why it took the agency more than four months to notify affected individuals, and why it provided misleading information to the public about the hack.

In August 2021, RIPTA publicly acknowledged a security breach, but a notice it posted indicated that it involved only the health care information of RIPTA personnel. Yet all the complaints received by the ACLU came from people who were never RIPTA employees and, in some instances, had never even ridden a RIPTA bus. They were, however, all former or current state employees.

Nothing in RIPTA's notice or letter explains why the personal health care information of non-RIPTA employees was in its computer system in the first place. However, it appears that the former insurer for state employees, United Healthcare, shared with RIPTA its data on all state employees, not just those of the agency, and RIPTA downloaded all that information to its servers, where it was stolen.



A legislative committee hearing on the matter failed to disclose clear answers to the ACLU's questions, and the ACLU is looking into taking legal action against RIPTA over this alarming security breach. The only remedy RIPTA has offered the more than 20,000 people affected by the breach is a free one-year credit monitoring service.

## **REDISTRICTING COMMISSION TAKES A HALF STEP TO ADDRESS PRISON GERRYMANDERING**

For more than a decade, the ACLU has been fighting the practice of prison gerrymandering in the state: the act of treating any individuals incarcerated at the ACI as living in Cranston for redistricting purposes, including individuals awaiting trial or serving misdemeanor sentences who are allowed to vote only from their home addresses. As a result of this practice, Cranston is overrepresented in the General Assembly, while the districts from where the prisoners hail are underrepresented.

Some important headway was made on the issue this month when the state's Reapportionment Commission agreed to count from their home community any person at the ACI who was serving a sentence of two years or less. This amounted to approximately 41% of the ACI's population. The commission's recognition of the distortions caused by prison gerrymandering was a long time coming, and the ACLU is continuing to push for legislation to take effect in time for the next census that would count *all* individuals at the ACI from their home community (see page 6).

## 2022 LEGISLATIVE PREVIEW - PART 1: PROACTIVE CIVIL LIBERTIES LEGISLATION

Here's a look at just some of the positive civil liberties bills that the ACLU of RI is lobbying on this session. (Not all bill numbers are available, as legislation was still being introduced as this newsletter went to press.) We'll cover some of the bills that are a threat to civil liberties in Part 2, in the next issue of our newsletter. More info on these and many other bills is available at [www.riaclu.org/legislation](http://www.riaclu.org/legislation).



### RACIAL JUSTICE

#### Data Collection on Racial Profiling

The Comprehensive Community-Police Relations Act mandated reporting of traffic stop and search data by race from every RI law enforcement agency. The expiration of this requirement in July 2020 reinforced both the need for its renewal and for significant amendment to the statute to ensure that it truly achieves its intent. This legislation would reinstate the law while adding more stringent requirements for analysis of the data and establishment of a community advisory board with oversight over the process.

### STUDENTS' RIGHTS

#### School Discipline Reform (H 7162, S 2289)

Despite 2016 legislation enacted to reduce out-of-school suspensions, their use has not significantly decreased, nor have the disparities in how the penalty is meted out to students of color and those with disabilities. This bill would strengthen that law by banning out-of-school suspensions for K-5 students except in very limited instances, and also requiring school districts to submit annual reports documenting their strategies to mitigate disciplinary disparities on the basis of race or disability.

#### School Computer Privacy (H 7563)

Distributing computers to students in public schools for home use is now commonplace. Unfortunately, students have virtually no privacy protections when they use these computers. This legislation would greatly limit remote access to the computers by school officials.



This screenshot of a student in his bed captured by school officials from his school-loaned laptop resulted in a major privacy lawsuit in PA.

### PRIVACY

#### Police Surveillance Technology (H 7507)

The implementation in several local communities of “automated license plate reader” cameras – which do much more than read license plates – recently garnered our opposition for several reasons. Notably, the cameras were introduced without any public input nor any limitations on the way they can be used, including identifying vehicle features like bumper stickers or tracking and tagging vehicles that have been seen near other cars being tracked. This legislation would significantly limit the manner in which these cameras can be used and require a public approval process before they can be purchased.

## CRIMINAL JUSTICE

### Juvenile Interrogation (H 7188, S 2370)

Following an incident handled a few years ago by the ACLU, in which an eight-year-old student was removed from her school bus based on unsubstantiated claims that she had “chemicals” in her backpack, and then questioned in police custody without her parent’s knowledge, we are supporting this legislation that would require parental notification and involvement before the questioning of a juvenile by law enforcement.

### “Life Without Parole” Sentencing (H 7191)

Underpinned by the crisis of an aging incarcerated population and the alarming racial disparities found in criminal sentencing procedures, some states have begun to examine the toll that “life without parole” sentencing has taken. We are supporting legislation which eliminates such sentences in Rhode Island to ensure that needlessly punitive sentencing options aren’t built into our criminal justice system.

## REPRODUCTIVE FREEDOM

### Medicaid Funding for Abortion (H 7442)

This legislation would provide Medicaid coverage for abortions and also ensure that state employee health insurance provides coverage for the procedure. The current statutory restrictions on abortion coverage disproportionately impact low-income individuals, people of color, and younger people. Expanding that coverage will provide necessary support for a patient’s decision-making over their health and well-being.



## IMMIGRANTS’ RIGHTS

### Drivers’ Licenses for All (S 2006)

This legislation authorizes drivers’ licenses for undocumented immigrants, and in doing so, would keep the roads safer by ensuring that they have driver’s training and car insurance. In the past, the bill has been supported by the Attorney General and the State Police, and it includes protections to ensure that federal immigration officials cannot access the information about these drivers. The Senate approved this legislation last June, but it died in the House after the DMV raised (unwarranted) fiscal concerns.

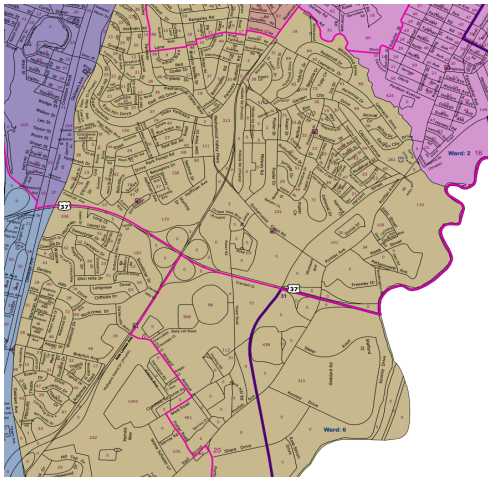
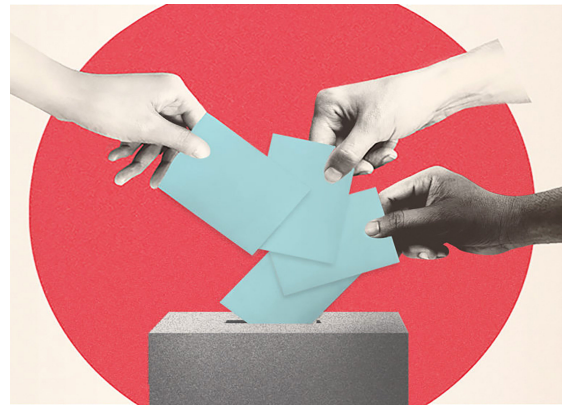
### 364 Day Misdemeanors (H 7355, S 2367)

Under federal immigration law, various offenses carrying a potential sentence of a year or more can lead to harsh immigration penalties, including detention and deportation. This legislation would reduce the maximum sentence for a misdemeanor charge from one year to 364 days, a small tweak that would protect residents from those harsh immigration consequences as a result of the commission of minor offenses that presently carry a potential maximum one-year sentence.

## VOTING RIGHTS

### **“Let RI Vote” Act (H 7100, S 2007)**

Following 2020’s extraordinary voter turnout after the emergency implementation of early in-person voting and less burdensome mail ballot procedures in response to the pandemic, this comprehensive legislation has been introduced. It would codify some of these practices and eliminate the onerous requirement, which the Affiliate successfully challenged in the U.S. Supreme Court, that mail ballots be witnessed by two people or a notary.



Cranston, Ward 6, Home of the ACI

### **Prison Gerrymandering (S 2257)**

Throughout the redistricting process – by which legislative districts are redrawn in Rhode Island every ten years – our organization has been vigilantly defending the need to simultaneously address the issue of prison gerrymandering, which counts incarcerated individuals at the ACI as residents of Cranston, rather than as residents of their home districts. While the state’s redistricting commission recognized the equity concerns underlying this issue and reallocated approximately 41% of the incarcerated population – specifically those individuals who were serving sentences of two years or less – we will continue to push for this legislation which would completely bar this practice for the next reapportionment in 2030.

## OPEN GOVERNMENT

### **Access to Records of Police Misconduct (H 6602)**

In response to a ruling in an ACLU case and recent advisory opinions issued by the Attorney General which significantly limit public access to police misconduct records, this legislation would strengthen the public’s ability to obtain those records.



## WAR ON DRUGS

### **Recreational Marijuana & Social Justice (H 7123, Article 13)**

As support has mounted for legalizing recreational marijuana, so have calls to ensure that social justice initiatives and civil liberties protections are included in any legislation on the issue. The ACLU strongly supports legalization and believes that legislation must confront the harmful impact that marijuana criminalization has had on communities of color for decades. While the Governor’s budget article on this subject includes a mechanism for the automatic expungement of marijuana-related criminal charges after legalization, we will be pressing for additional civil rights protections.

For more information on these and many other bills, visit our website at [www.riaclu.org/legislation](http://www.riaclu.org/legislation).

## LEGAL BRIEFS



Champlin's Marina

## Court Rejects Legal Brief Filed by Open Government, Environmental Groups in Controversial Block Island Marina Expansion Case

In a troubling move in a case that raises significant issues involving government transparency, the R.I. Supreme Court refused to accept a “friend of the court” brief that the ACLU of RI and other groups, including Save the Bay and Common Cause, had submitted in a long-standing controversy involving the proposed expansion of Champlin’s Marina on Block Island.

The organizations filed the brief in support of parties who seek to overturn a September 2021 Superior Court decision which found that a mediation approving the expansion was “proper and conclusive.” The court made that finding even though those parties, who had been involved in the litigation for years and had raised environmental concerns about the plan, were not a part of the mediation. The brief claimed that in accepting the settlement, the court disregarded compliance with critical environmental regulations that required public involvement in decision-making.

The Supreme Court gave no explanation for rejecting the brief, and the ACLU could not recall another time when this had happened to a brief it had filed in that court. The case is filled with many other odd twists and turns: the lead attorney for the marina is the spouse of a Supreme Court justice (who has recused herself), and the challenged mediation was conducted by a former chief justice of the court who had previously ruled in support of the marina in earlier litigation in the case.

## Court Hears Arguments Over Reproductive Privacy Act

The R.I. Supreme Court heard oral arguments in January in a lawsuit – which includes two alleged fetuses as plaintiffs – challenging the Reproductive Privacy Act, the 2019 statute that codifies the principles of *Roe v. Wade* into state law. The ACLU of RI filed a court brief before the Court defending the law’s constitutionality and urged rejection of the lawsuit.

The ACLU and a large coalition of organizations had pressed for years for passage of the Act in prescient recognition that the U.S. Supreme Court might eviscerate the right to an abortion guaranteed by *Roe*. Before the 2019 law was enacted, the ACLU had successfully challenged in court a half-dozen statutes enacted by the General Assembly since 1973 that sought to erode abortion rights. A ruling from the state’s High Court is expected in a few months.

## ACLU Settles Open Records Lawsuit with Labor Department

The R.I. Department of Labor and Training (DLT) has acknowledged it violated the Access to Public Records Act (APRA) when it refused to provide the ACLU any documents, and then acknowledged it had none, in response to a request for records related to the agency’s “actual or considered use of facial recognition” to process unemployment claims. The ACLU filed the APRA request in response to news reports indicating that numerous states have begun using this privacy-invasive technology to process unemployment claims. The DLT initially responded that all the requested documents were “confidential by law” and would not be released. After ACLU of RI cooperating attorneys C. Alexander Chiulli and Hilary White sued to get the documents, the DLT revealed that it actually had no documents to offer as it had never considered using the technology. The agency agreed to pay \$5,000 in fees to settle the case.



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YOUR SUPPORT HAS A REAL IMPACT.**

THANK YOU!

**WANT TO DO MORE? HERE'S HOW:**

### MAIL A DONATION

Use the return envelope in this newsletter to mail us a check made out to "ACLU Foundation of RI." *Your donation is tax-deductible, and you don't even need a stamp!*

### MAKE A GIFT ONLINE

Visit [www.riaclu.org/get-involved/donate](http://www.riaclu.org/get-involved/donate) to make a one-time gift or set up a recurring donation.

