

2023 LEGISLATIVE SESSION:

Major Victory for Abortion Rights, But Police Reform Stalls Yet Again

The 2023 Legislative Session wrapped up early in the morning of June 16, closing the doors on a busy six months at the State House. Like most legislative sessions, the results were mixed for civil liberties, but this year was largely notable for what did *not* pass rather than for what did.

The most important victory by far was passage of the Equality in Abortion Coverage Act (EACA), expanding access to essential reproductive healthcare in Rhode Island, and ensuring that Medicaid funding will be available to those least able to afford abortions. The bill's passage was the result of years of work by many organizations and advocates, and was especially welcome as we marked the one-year anniversary of the U.S. Supreme Court's devastating decision overturning *Roe v. Wade*.

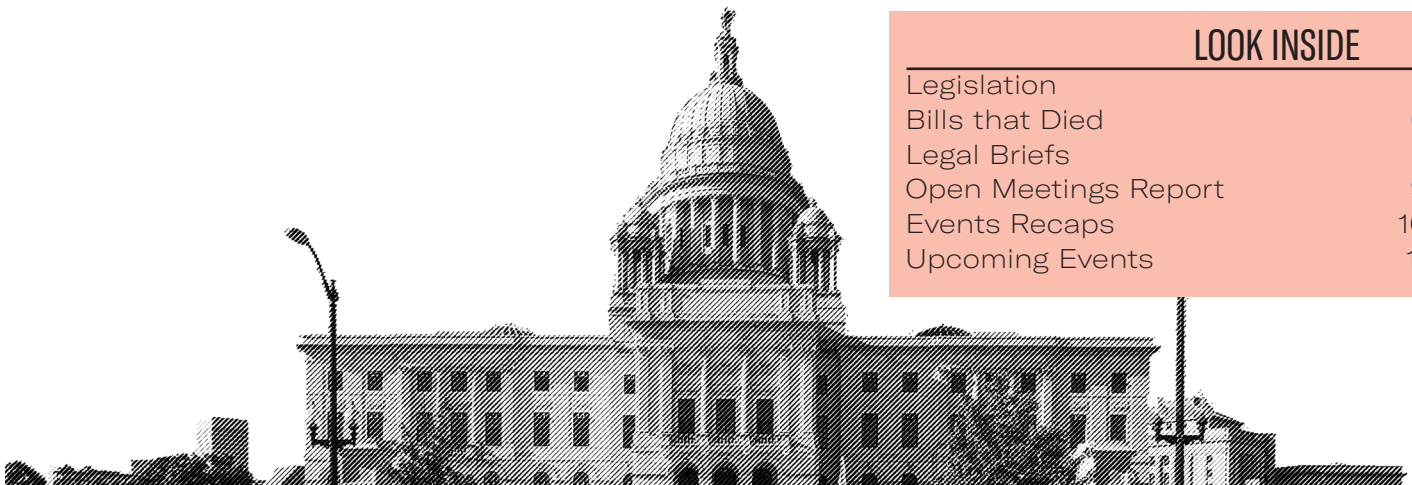
Another victory was passage of a bill amending the Fair Employment Practices Act to prohibit employers from requiring non-disclosure agreements (NDAs) as a prerequisite to employment. As the #MeToo movement has demonstrated, NDAs are a pernicious method of keeping secret severe experiences of discrimination in the workplace. Also on the positive side: ACLU lobbying helped defeat a plethora of dangerous bills that would have had an adverse impact on voting rights, criminal justice and free speech, to give a few examples.

But while we celebrate those successes, we must also note that another year passed without police reform, without improved government transparency laws, and without common-sense technology privacy protection for students. The legislature's continued lack of action on these issues is extremely disappointing.

In this newsletter, you can read about these and some of the other 350 bills that the ACLU of RI lobbied on this year. For more information on our legislative advocacy, including access to our written testimony on numerous bills, visit www.riaclu.org/legislation. And please join us on **Wednesday, July 26 for our in-person Legislative Wrap-Up** where we'll walk you through the journey some of these bills have taken.

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FROM THE DESK OF THE EXECUTIVE DIRECTOR

We know it's summer when the legislative session ends for another year. The Affiliate testified on over 350 bills this session, and tracked hundreds more. If a bill could impact civil liberties, in either good or bad ways, we were following its journey from committee to the governor's desk.

Although the session is over, our work never pauses. In the past two months, as you'll read inside, we have taken on a case on behalf of young children being unlawfully restrained at school, won a pregnancy discrimination lawsuit, and filed a brief challenging the use of solitary confinement at the ACI.

Additionally, we released a major new report on open meetings accessibility, and are hosting two wrap-up events in July. Please consider this my personal invitation for you to join us at these events and learn more about this year's SCOTUS term and the state legislative session. You can find the details on Page 11.

Thank you, as always, for your support. It is only with your engagement that we are able to step into the State House, the courtroom, the public arena, and the office every day to accomplish as much as we do.

— Steven Brown

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A LOOK AT LEGISLATION

REPRODUCTIVE FREEDOM

Medicaid Funding for Abortion

(H 5006, S 32) – PASSED 👍

Following up the General Assembly's prescient decision in 2020 to codify the standards of *Roe v. Wade* into state law, the General Assembly passed legislation this year that will provide Medicaid coverage for abortions and also ensure that state employee health insurance offers coverage for the procedure. The legislation repeals two bans that have existed for decades, and whose restrictions on abortion coverage disproportionately impacted low-income individuals, people of color, and younger people. Sponsored by Sen. Bridget Valverde and Rep. Katherine Kazarian, passage of this law marks another step forward for reproductive equity in Rhode Island.



MISSED OPPORTUNITY, AGAIN – POLICE REFORM DIES

Ever since the Black Lives Matter protests of 2020 ignited by the death of George Floyd, state legislatures across the country have enacted a wide variety of police reform legislation. Not so in Rhode Island, unfortunately. One of the greatest disappointments of the 2023 session was the missed opportunity, for the fourth year in a row, for Rhode Island legislators to take any action on bills designed to rein in questionable law enforcement practices. Among the police reform bills that died this session:

- Legislation reinstating the collection and analysis of data relating to police traffic stops, designed to determine if patterns of racial profiling exist. While this legislation passed the Senate, it died in the House. (H 5889, S 368)
- Legislation to set limits on the police use of invasive surveillance camera technology. (H 5365)
- A slew of bills reforming the Law Enforcement Officers' Bill of Rights, which serves as a significant barrier to disciplining police officers for misconduct. One bill, S 1060, passed the Senate but died in the House. (H 5567, H 5888, H 6200, S 360, S 1059, S 1060)
- Legislation to require parental notification and involvement before the questioning of a juvenile by law enforcement. (H 5227, S 404)
- Legislation establishing a process for the de-certification of police officers. Rhode Island is one of only two states without such a process. (H 6181, S 811)



FIRST AMENDMENT

Librarians and Obscenity (H 6066, H 6324) – DIED IN HOUSE 🇺🇸 🗳️

Competing bills addressed the disturbing crusade against anti-racism and LGBTQ+ affirming literature occurring in school libraries across the country, including Rhode Island. H 6066, sponsored by Rep. David Morales, would have made clear that the state’s obscenity law did not apply to literature with “educational and governmental” value or to materials in a “bona fide school, museum, or public library.” On the other hand, H 6324, introduced by Rep. Samuel Azzinaro, would have explicitly subjected libraries to state obscenity statutes, and allowed for the imprisonment of librarians for distributing “obscene” materials, including cartoons or comic books. Both bills died in committee.

“Workplace Psychological Safety Act” (S 821A) – DIED IN HOUSE 🇺🇸

While ensuring a healthy workplace is a laudable goal, we opposed this far-reaching legislation which would have imposed liability on employers or co-workers who, among other actions, engaged in “persistent criticism” or created a “toxic work environment.” We noted that this broadly worded bill would make protected First Amendment speech in the workplace illegal and subject routine personal interactions to litigation, and provided even stronger remedies than those available to victims of discrimination under the state Fair Employment Practices Act. The bill passed the Senate but died in the House.

GOVERNMENT TRANSPARENCY

Remote Meetings for “Life Sciences Hub” Board (H 5200Aam) – PASSED 🗳️

The FY 2024 budget included the creation of a powerful board to oversee a new “life sciences hub” in Rhode Island. While we had no position on the hub itself, we opposed a provision that will allow the board to meet remotely any time it chooses. The ACLU of RI has called for greater remote access to governmental meetings by the public, but we have also argued that accountability and transparency are enhanced when public bodies themselves meet in person.



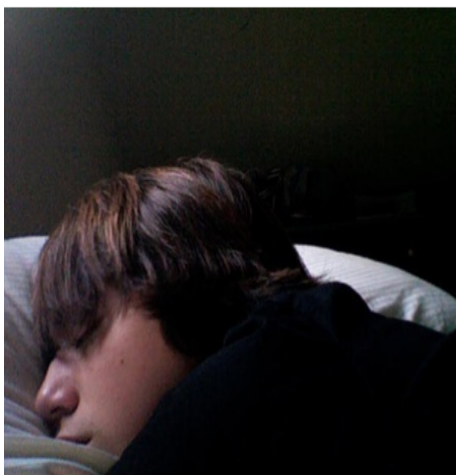
“Access to Public Records Act” Reform (H 5454, S 420) – DIED IN COMMITTEE 🗳️

With other open government advocates, we supported a bill to comprehensively update Rhode Island’s Access to Public Records Act for the first time in over a decade. Among many other provisions, these important updates would have reduced the costs for obtaining records, ensured better access to investigations into police misconduct, and required more transparency by agencies in explaining record denials. Despite efforts by Senate sponsor Louis DiPalma to draft an amended bill that took into account some of the concerns expressed by government agencies, the bill died without a vote.

VOTING RIGHTS

Counting of Write-In Votes (H 5960A, S 841) – DIED IN SENATE 👍

Regardless of who a vote is for, even for an inevitably losing cause, all voters fundamentally deserve the right to have their votes counted. For this reason, we opposed a bill that would have eliminated the counting of write-in votes for persons if they had not filed a “declaration of intent” in advance with the Board of Elections. While the bill, which was proposed by the Board, passed the House, it died in the Senate.



STUDENTS' RIGHTS

School Computer Privacy (H 5561, S 702) – DIED IN SENATE 🗨️

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, sponsored by Sen. Bridget Valverde and Rep. June Speakman, would have barred school officials from surreptitiously accessing the cameras and microphones of these student-loaned devices. The bill passed the House but died in Senate committee. If this seems like a hypothetical issue, consider the photo to the left. It is a screenshot of a student in his bed captured by Pennsylvania school officials from a school-loaned laptop; the school district’s snooping led to a major ACLU privacy lawsuit.

“Parental Rights” Legislation (H 5688, H 5739, H 5859) – DIED IN COMMITTEE 👍

We strongly opposed a package of bills purporting to enhance parental consent and involvement in their children’s education, but which would have instead sought to dictate curricular and educational decisions in ways that were not only censorious and contrary to fundamental pedagogical principles, but impractical to implement in all but the most arbitrary fashion. The bills, which mirrored similar “culture wars” legislation being sponsored in Statehouses across the country, all died in committee.

WORKPLACE RIGHTS

Banning NDAs in Employment (H 5929A, S 342am) – PASSED 👍

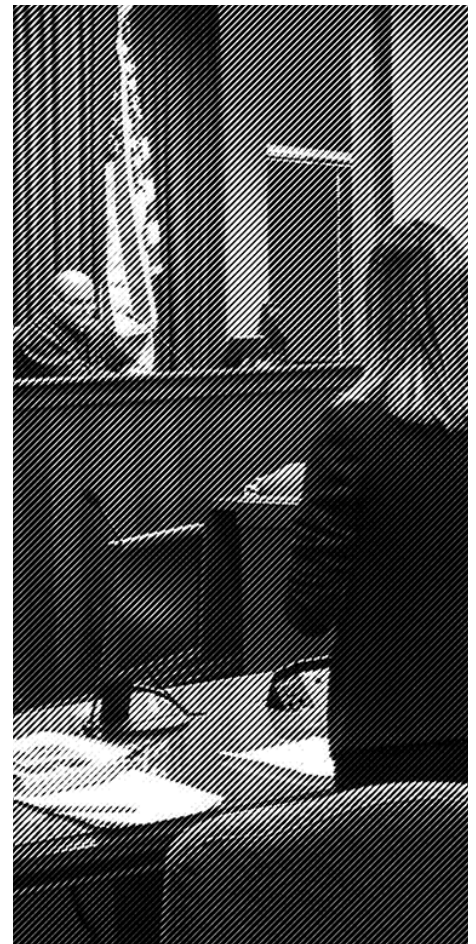
This important anti-discrimination legislation, which has been signed into law, amends the state’s Fair Employment Practices Act to prohibit an employer from requiring employees to sign a non-disclosure or non-disparagement agreement as a condition of employment, and ensures that victims of discrimination in the workplace will be allowed to speak out about workplace misconduct. The legislation was sponsored by Rep. Teresa Tanzi and Senator Alana DiMario.



CRIMINAL JUSTICE

Mandatory Minimum Sentencing (H 5757am) – DIED IN SENATE 👍

The ACLU of RI has consistently opposed mandatory minimum sentencing on the grounds that it is ineffective, costly, eliminates individualized consideration of the offender and the circumstances of the offense, and places too much power in the hands of prosecutors instead of neutral judges. But in a blow to past legislative actions promoting justice reinvestment, the House overwhelmingly supported a bill that would have created mandatory minimum sentences for first- and second-degree sexual assault. Fortunately, the legislation died in the Senate.



IMMIGRANTS' RIGHTS

“364 Day Misdemeanor” (H 5361, S 685) – DIED IN HOUSE 🗣️

For individuals with green cards, a minor misdemeanor charge can have a severe impact. Because these crimes are punishable by up to a year in prison, people who don't spend a day in jail are still subject to deportation under a federal law that authorizes deportation for conviction of an offense that carries a *potential sentence* of one year or more. This bill would decrease the maximum sentence for a misdemeanor by one day – to 364 days – to ensure such harsh consequences don't flow from a minor offense. For the second year in a row, the bill, sponsored in the Senate by Sen. Jonathon Acosta, passed that chamber but died in the House due to objections from the Attorney General.

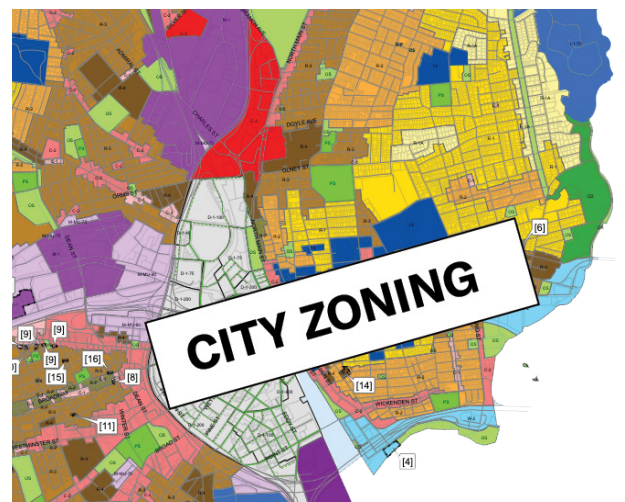
DUE PROCESS

Self-Storage Facility Default Notices (H 5433Aam, S 366Aam) – PASSED 👍 🗣️

At a time of rising poverty and extensive homelessness, it is important that people using storage facilities not unfairly lose the ability to retain their possessions. For these reasons, we opposed this bill that reduced the notification requirements that had to be followed before facilities could sell a delinquent renter's property in a self-service unit. Rep. Cherie Cruz successfully obtained amendments to the bill to restore some of the notice requirements the bill sought to repeal, although the ACLU of RI continued to have due process concerns with the bill's easing of the notice procedures before confiscating unit owners' property.

Restriction on “Unrelated” People in a Housing Unit (S 1061Aam) – DIED IN SENATE 👍

In the closing hours of the session, during a debate on a zoning bill, the House approved a floor amendment that would have barred more than five unrelated people from living together in the same house. The amendment, aimed at curbing student living arrangements, would have only exacerbated the state's severe housing shortage and was a direct attack on litigation the ACLU of RI has handled against municipal ordinances seeking to limit student housing choices. While the amended bill passed the House, the Senate took no action on it.



BRIEF UPDATE: ADDITIONAL BILLS THAT DIED

Good Bills That Died

- Despite the state redistricting commission partially addressing the issue of prison gerrymandering during last year's redistricting process, the General Assembly again failed to act on legislation to permanently bar the practice. (H 5613, S 628)
- A bill to repeal an exemption in our state minimum wage laws for domestic workers died in the Senate after passing the House. (H 5371, S 424)
- A proposed constitutional amendment to allow for "same-day registration" for voters died in committee in both chambers. (H 5770, S 608)
- A proposed constitutional amendment to make the right to an adequate education an enforceable right passed the Senate but died in the House. (S 72)

Bad Bills That Died

- A bill that would bar an individual convicted of "sedition, insurrection, rebellion or a felony in relation to such act" from voting, serving as a state employee, or running for public office died in committee. (H 5267)
- Legislation to make it a felony, rather than a misdemeanor, for failing to report broadly defined instances of child neglect died in committee. (H 5358, S 814)
- An Attorney General bill giving his "health care advocate" non-consensual access to confidential patient health care information failed to pass either House. (H 5915, S 728)
- Legislation allowing any member of a public body who was 65 years or older to participate in meetings remotely died in committee. (H 5266, S 415)
- Legislation that could have allowed police officers who engaged in misconduct against civilians to collect PTSD benefits died in the House after passing the Senate. (H 5373, S 230)

How did your legislators vote? Check out our 2023 Legislative Scorecard on our website! Go to www.riaclu.org/legislative-scorecards or scan the QR code.

The scorecard lays out a number of key bills voted on by the House and the Senate this year, indicating how each legislator voted. It makes it easy for you to see how your Senator and Representative voted on important legislation affecting civil liberties in our state.



LEGAL BRIEFS

ACLU Settles Case Against Cleaning Service Company for Discrimination Against Pregnant Job Applicant

In resolving a lawsuit filed last year that highlighted the difficulties and discrimination that women continue to face in the workplace, the ACLU favorably settled the case on behalf of Julia Schultz, a house cleaner who was terminated by a professional cleaning service immediately after they learned she was pregnant. Specifically, a manager told her she “should be at home taking care of that special gift from God’ or words to that effect,” and that she could reapply for the job after the birth of the baby. Without admitting liability, the Merry Maids company, located in East Providence, agreed to pay Schultz \$50,000 and an additional \$5,000 in attorneys’ fees to settle the lawsuit. The case was handled by ACLU of RI cooperating attorney Mark Gagliardi.



Photo of Plaintiff Julia Schultz

ACLU Joins Long-Running Lawsuit Challenging DCYF’s Widespread Failure to Protect the Rights of Foster Children

ACLU of Rhode Island cooperating attorneys joined a national group’s long-standing federal class action lawsuit that requires the Department for Children, Youth and Families (DCYF) to implement systemic reforms to improve the treatment of children in its care and custody. The lawsuit was filed more than a decade ago by the national organization Children’s Rights and led to a detailed settlement agreement back in 2018 designed to address numerous systemic deficiencies in DCYF’s treatment of children in foster care. Those deficiencies included, among many other shortcomings, the agency’s placement of children in inappropriate and unsafe settings and its failure to recruit or license foster care placements in a timely manner or provide children with adequate case plans. DCYF remains woefully behind in its compliance efforts, prompting the ACLU’s intervention in the case.

Complaint Alleges Special Education Children Unlawfully Restrained in West Warwick, North Kingstown Schools

On behalf of five families, attorneys for R.I. Legal Services and the ACLU of Rhode Island filed complaints with the U.S. Department of Justice (DOJ) against the West Warwick and North Kingstown school districts for excessively and unlawfully restraining some elementary school students with special needs, resulting in both mental health trauma and physical injury. “Restraint” is the use of physical intervention to immobilize a child or limit their movement; by law, it can only be used in a crisis and to prevent injury, and for the shortest time possible.

A cover letter included with the complaints to the DOJ emphasizes that the “large number of restraints experienced by each child, and in some instances their duration, as well as injuries resulting therefrom, are indicative of a pattern where restraint has become a norm rather than a warning to adjust to alternative and preventative strategies.”





Providence County Court House

Court Issues Stay of Order Requiring Parole Board to Consider Release of Mario Monteiro

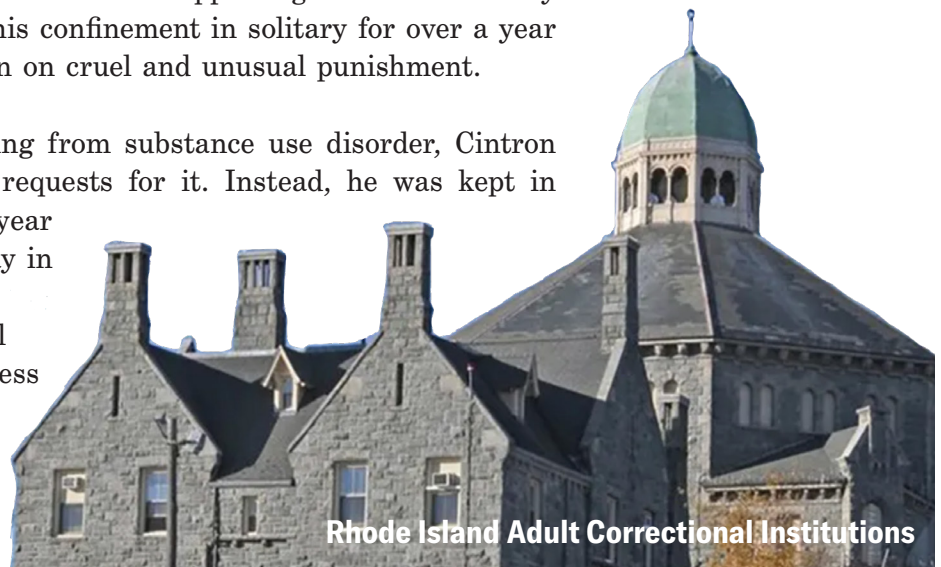
In a preliminary victory for criminal justice reform and the rights of youthful offenders, Superior Court Judge Stephen P. Nugent ruled that Mario Monteiro is eligible for parole. The ACLU of RI filed a court petition in February after the State took the position that the 2021 statute enacted by the General Assembly to give young offenders serving lengthy sentences a chance for early release on parole, and which was overtly intended to help Monteiro, did not apply to him. Instead, the state argued that Monteiro had to serve an additional 15 years in prison until parole eligibility.

However, the court's order in support of Monteiro is on hold, as the R.I. Supreme Court granted a stay in response to an appeal filed by the Attorney General's office. However, the Court also ordered that the appeal be expedited. The petition on Monteiro's behalf is being handled by ACLU of Rhode Island cooperating attorneys Lynette Labinger, Lisa Holley, and Sonja Deyoe. Attorney Labinger said: "The lower court's decision vindicates the General Assembly's humane position that young offenders deserve a second chance. Mario's rehabilitation after 20 years in prison is a testament to the wisdom of the legislature's actions, and we are hopeful that the Supreme Court will recognize that there is no validity to the state's attempt to undermine that law."

ACLU Files Court Brief Challenging Legality of Lengthy Solitary Confinement at the ACI

The ACLU has filed a "friend of the court" brief supporting ACI inmate Jerry Cintron's constitutional challenge to his confinement in solitary for over a year as a violation of the constitutional ban on cruel and unusual punishment.

The lawsuit alleges that while suffering from substance use disorder, Cintron was given no treatment despite his requests for it. Instead, he was kept in disciplinary segregation for over one year where he spent at least 23 hours a day in an eight-by-ten foot cell, was given a maximum of one 10-minute phone call each month, and was provided no access to programming. The case is pending in the U.S. Court of Appeals in Boston.



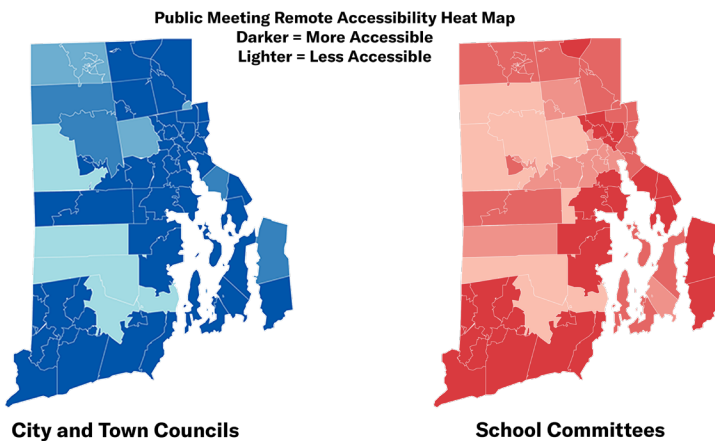
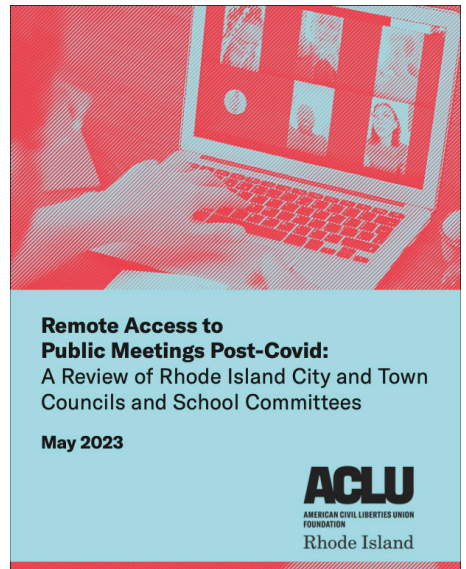
Rhode Island Adult Correctional Institutions

REPORT: OPEN MEETINGS POLICIES

After three years of expanded remote access, how has the return to in-person activities affected the remote accessibility of public meetings?

We released a detailed report in May, examining the open meeting policies of Rhode Island city and town councils and school committees. The report looked at four criteria of accessibility, and provided suggestions for improvements that every municipal council and school committee can take. The report highlighted those communities with good and poor accessibility policies.

As the report noted, open meetings should continue to be accessible for those who cannot make in-person meetings – including parents with young children, elders who cannot drive in the dark, and those working multiple jobs. The ACLU plans to do a follow-up review of the municipal policies later this year.



Read the full report on our website, at www.riaclu.org/reports

WELCOMING NEW STAFF: MONICA SMITH, DEVELOPMENT ASSOCIATE

Monica Smith is an accomplished nonprofit leader with over 17 years of experience in social justice, civil rights, and community development. Monica’s expertise lies in fostering relationships within communities and addressing critical issues such as criminal justice, housing, and homelessness, as well as recovery and mental health. Grateful to no longer be a CEO, you can find Monica outside gardening and playing softball as close to year-round as possible.



REMEMBERING NANCY ROSE

We note with sadness the passing of Nancy Rose, a former active ACLU of RI Board member for many years and longtime LGBTQ activist. As a member of the R.I. Alliance for Lesbian and Gay Civil Rights, she was a driving force in the passage of the state’s sexual orientation anti-discrimination laws and, later, worked ceaselessly for passage of the state’s marriage equality law. The Affiliate offers its deepest condolences to her spouse Ellen.

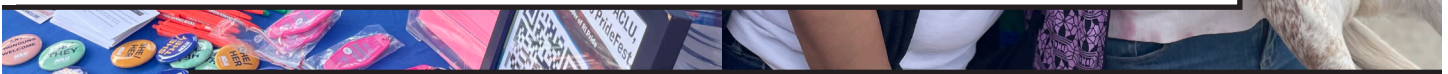


EVENT RECAP: DRAGPALOOZA & PRIDEFEST



RECAP: PROVIDENCE PRIDE

PrideFest is one of our favorite events of the year. Despite the rainy weather, we were able to meet a lot of wonderful folks! Shout out to our hundreds of visitors and to our volunteers and Board Members for braving the storm and helping with tabling.



Interested in the history of PrideFest in Rhode Island?

We created a short video about the history of PrideFest, explaining the 1976 protest – and the ACLU lawsuit – that made this event possible in Rhode Island. Check it out on our YouTube channel by searching for “RIACLU.”

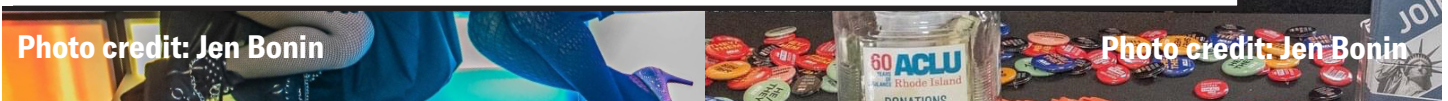


RECAP: DRAGPALOOZA

The fantastic two-day drag fundraiser organized by LaDiva Jonz on behalf of the ACLU of RI, featuring dozens of local drag performers who donated their time and tips, was a blast! A grateful thanks to La Diva and The Stable for hosting the event, which raised thousands of dollars for our legal and educational work.

Photo credit: Jen Bonin

Photo credit: Jen Bonin



UPCOMING EVENTS: SCOTUS, LEGISLATIVE WRAP-UPS

UPCOMING: SCOTUS WRAP-UP

Thursday, July 13 via Zoom, 6:00pm-7:15pm

Get the run-down on how civil liberties fared in the Supreme Court this past year. A wide variety of cases will be explained by some of our cooperating attorneys so you'll understand the who, what, how, and why each case is important.

Some of the decisions will include:

- *Students for Fair Admissions v. Harvard* (Affirmative Action)
- *303 Creative v. Elenis* (Anti-Discrimination)
- *Gonzalez v. Twitter* (Freedom of Speech)



Registration is required to receive virtual event information. Scan this QR code with your phone camera, or go to www.riaclu.org/events.

UPCOMING: RI LEGISLATIVE WRAP-UP

Wednesday, July 26 at the Central Cranston Library, 6:00pm-7:30pm

We tracked over one thousand bills, and lobbied on hundreds of them – even the smallest details can make a big difference to individuals’ civil liberties in our state. We hope you’ll join us for a debrief of the best and worst bills of the session, and to enjoy desserts from local establishments!

We’ll cover a dozen bills, covering topics such as free speech protections for librarians, prison gerrymandering, open records reform, reproductive rights, and much more.

This event is free and open to the public, and will be held in the James T. Giles Community Room, 140 Sockanosset Cross Rd. While registration is not required, we would appreciate if you submitted an RSVP so we can make sure to have enough refreshments; go to www.riaclu.org/events.



2019 Wrap-Up Event

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Rhode Island

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