

## ACLU CHALLENGES STATE'S EFFORT TO UNDERMINE LAW ALLOWING FOR EARLY RELEASE OF JUVENILE OFFENDERS



Plaintiff, and "Mario's Law" Namesake,  
Mario Monteiro

Calling it a "miscarriage of justice," ACLU of Rhode Island cooperating attorneys have filed a petition in R.I. Superior Court to challenge the state's "absurd" position that an important criminal justice reform enacted by the General Assembly in 2021, designed to give young offenders serving lengthy sentences a chance for early release on parole, doesn't apply to the person the law was overtly aimed to help.

The statute, often referred to 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. "Mario" refers to Mario Monteiro, the 39-year-old petitioner in this case who has been incarcerated his entire adult life after being sentenced to two life sentences for a murder he committed

when he was 17 years old. The 2021 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 underdeveloped sense of responsibility and should therefore be given a second chance.

Despite the statute's clear language, the Department of Corrections, the Attorney General and, by acquiescence, the Parole Board have all taken the position that the statute does not apply to people like Monteiro who are serving more than one sentence. Instead, they claim that, despite already having served more than 20 years at the ACI, he must serve at least an additional fifteen years on his second life sentence before he can be considered for parole. The ACLU petition notes that this would "effectively operate to nullify" the statute's terms "and defeat its purposes" since almost all people serving a life sentence are *already* eligible for parole after 20 years without the passage of Mario's Law.

The petition for post-conviction relief, filed by ACLU of Rhode Island cooperating attorneys Lisa Holley, Sonja Deyoe and Lynette Labinger, asks, among other things, for the court to reject the state's "arbitrary and capricious" interpretation of Mario's Law, and to grant his immediate release to the community or return for consideration by the Parole Board "forthwith" to determine the conditions that would authorize his immediate release. The ACLU expects a hearing in the case to be held promptly.

Upon the filing of the suit, Monteiro, whose rehabilitation has been widely acknowledged, said: "I am hopeful that a correct interpretation of the youthful offenders act will be applied and that I'll be able to prove, together with other youthful offenders, that people are capable of change and growth, which is at the heart of this legislation."

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## FROM THE DESK OF THE EXECUTIVE DIRECTOR

When we held our annual Legislative Advocacy Training in January, it was inspiring to see how many people in the Ocean State are and remain committed to learning about civic advocacy.

Not only are we grateful for the dozens of individuals who turned out on a cold Saturday morning to talk about how a bill becomes a law, or how to effectively lobby their legislators, but we're thankful to our many members who continually express interest in the ways that they can help protect civil liberties in Rhode Island.

Especially in considering the past year of devastating decisions, and the looming impact of upcoming decisions, from an unrestrained U.S. Supreme Court, we know that state-level advocacy is more critical than ever. That's why we've included a number of proactive bills in this newsletter that our lobbyists will be actively supporting at the Statehouse – and which we hope you will also feel empowered to take action on.

Not only does this newsletter describe some of our priority legislation for the 2023 legislative session, but we also have another advocacy event coming up in April to help you respond to bills in real time. More information about the event can be found on the back page of this newsletter.

The ACLU of RI has a packed agenda, and community engagement is more important than ever in helping us protect civil liberties. So thanks for being with us, contacting us, and advocating with us!

-- Steven Brown

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## ACLU EXPANDS LAWSUIT OVER RIPTA BREACH OF PERSONAL DATA OF MORE THAN 20,000 STATE EMPLOYEES

Further documenting the incident's devastating and overwhelming impact, cooperating attorneys for the ACLU of RI have filed an amended complaint in their pending class-action lawsuit against the Rhode Island Public Transit Authority and UnitedHealthcare New England over an August 2021 data breach that compromised the Social Security numbers and other personal and health care information of more than 20,000 current and former state employees, including many who had no connection to RIPTA.

The 68-page amended complaint adds eleven plaintiffs to the lawsuit as "class representatives" and describes the fraud, identity theft and hacking of bank and credit card accounts for thousands of dollars that some of them experienced after the breach. Others, the amended complaint notes, discovered that their personal information could be found on the "Dark Web," a non-public area of the Internet that cannot be accessed through the use of standard web browsers and is often used for criminal activity, including the sale of confidential information to engage in identity theft.

Peter Wasylyk, one of the ACLU cooperating attorneys handling the case, said: "We felt it was important to amend the lawsuit to give stronger voice to the individuals whose lives have been adversely affected in significant ways by this data breach. This is not an abstract concern. The time, the expense and the concerns that flow from seeing your bank account drained or your credit card hacked or learning that your personal information is in the dark corners of the Internet demand a remedy. We hope the stories told by our named plaintiffs – representing many others who have faced similar consequences from this breach – demonstrate the need for meaningful judicial relief."



powered by United Way of Rhode Island

401Gives is right around the corner! This year you will have an ENTIRE weekend to show your support for the ACLU Foundation of Rhode Island!

**Starting Friday, March 31, 2023 at 6am and running through Monday, April 3, 2023 at 6pm**, you will have the chance to show your support for our organization. Be sure to search for ACLU Foundation of Rhode Island to make your donation. Details can be found at [401gives.org](http://401gives.org).

## SPOTLIGHT ON SPECIAL EDUCATION-RELATED LAWSUITS

### COMPLAINT ALLEGES “EGREGIOUS” VIOLATION OF SIX-YEAR-OLD CHILD’S SPECIAL ED RIGHTS

The ACLU of Rhode Island has filed a complaint against the Bristol-Warren School District on behalf of a six-year-old child who, the complaint alleges, for months has not been given the free and appropriate education to which he is clearly entitled due to his serious special education needs. ACLU cooperating attorneys Christine Marinello and Ellen Saideman took on the case to highlight the systemic failures of some schools to comply with their obligations to special education students.

Last June, a clinical team at Bradley Hospital recommended a special therapeutic educational environment for the child, who had engaged in disability-related behavior that had led to his expulsion from several childcare programs. The complaint charges the school district with failing to provide him with the reasonable educational accommodations he needs in light of his disabilities, infringing his rights to due process by imposing discipline without providing proper notice, and violating a state law that restricts police interrogation of young children in elementary school. The complaint seeks numerous forms of relief on the child’s behalf, including a finding that the district has violated his rights in numerous respects, and the issuance of an order requiring the district to develop an appropriate plan that places him in the therapeutic environment that had been previously recommended.

“This is one of the more egregious cases I have handled. Months of exclusion without any education is inexcusable.”

ACLU attorney Marinello called the school district’s violations “one of the more egregious cases” she has handled. Although it takes time to find an appropriate placement, she said, “months of exclusion without any education is inexcusable. We filed this case to get this student the compensatory education he deserves, but to also seek staff training to ensure adherence to disciplinary due process.”

### ACLU AND RI LEGAL SERVICES FILE SPECIAL EDUCATION COMPLAINT AGAINST PROVIDENCE SCHOOL DISTRICT

The ACLU of Rhode Island and R.I. Legal Services (RILS) have filed a formal complaint with the U.S. Department of Education against the Providence School District for failing to provide parents of special education students with the documents that are used to determine a child’s eligibility for special ed services and the nature of the services to be provided.

The complaint, filed by RILS attorney Veronika Kot and ACLU of RI cooperating attorney Ellen Saideman, notes that parents need access to those records in order to meaningfully participate in the development of their child’s special education plan, as federal law requires. The documents that the complaint claims the school district fails to retain or hand over to parents contain student test protocols, which include notes and observations of evaluators that form the basis of reports on the services that must be provided to address the child’s special education needs.

The complaint, filed on behalf of a Providence parent and her child, seeks classwide relief on behalf of all children with disabilities or suspected disabilities in the school district. The school district has admitted that it has failed to maintain and/or cannot locate evaluation and test protocols for the named child and, presumably, many other students. The complaint seeks a variety of forms of relief, including an order “prohibiting the Providence School District from using evaluations where protocols have been mislaid, lost, or destroyed illegally” if a parent or guardian objects to their use.

## 2023 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 major 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 (H 5889, S 368)**

In July 2020, a law requiring every RI law enforcement agency to collect and report traffic stop and search data by race expired. The data obtained from that law have been crucial in documenting significant racial disparities in police practices and in pressing for reform. This legislation would reinstate that law while adding more stringent requirements for analyzing the data and creating a community advisory board with oversight over the process. The goal of the bill is to hold police more accountable for these disparities and require action on their part to address them in a meaningful way.

#### **Domestic Worker Minimum Wage Exemption (H 5371, S 424)**

Domestic workers – a demographic of employees largely comprised of lower-income women of color and immigrants – are inappropriately exempted from the state's minimum wage laws. In supporting this legislation repealing that exemption, we emphasized the current law's sexist and racially discriminatory origins and impact.

### *STUDENTS' RIGHTS*

#### **School Discipline Reform (H 5422, S 189)**

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. In the next month, the ACLU of RI plans to release a report documenting the discriminatory impact of school suspensions and, hopefully, providing momentum for passage of this legislation.

#### **School Computer Privacy (H 5561)**

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 the ability of school officials to obtain remote access to the computers and spy on their students.



#### **“Right to an Education” Constitutional Amendment (H 5771, S 72)**

For students in low-income communities, remedies for a lack of educational equity are particularly urgent. This bill would amend the Rhode Island constitution to guarantee the right to an adequate education. The Rhode Island Supreme Court has several times rejected the notion that students have a judicially enforceable right to an education; this bill would establish that right as fundamental.

**PRIVACY**

**Police Surveillance Technology (H 5365)**

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.



**Sex Worker Immunity (H 6063, H 6064)**

Because prostitution remains a crime in the state, sex workers who are the victims of sexual assault, theft or other serious crimes in the course of their work – or who become aware of similar crimes committed against others – are often understandably reluctant to report them to the police, only further encouraging their victimization. Legislation introduced this year would provide sex workers immunity from prosecution for prostitution when they report these crimes in good faith.

**CRIMINAL JUSTICE**



**Juvenile Interrogation (H 5227, S 404)**

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 for over an hour 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 5149, S 374)**

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. Taking this step would ensure that needlessly punitive sentencing options aren’t built into our criminal justice system and recognize that all offenders deserve at least consideration of a second chance.

**REPRODUCTIVE FREEDOM**

**Medicaid Funding for Abortion (H 5006, S 32)**

This legislation would provide Medicaid coverage for abortions and also ensure that state employee health insurance covers 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 and is especially timely after the U.S. Supreme Court’s devastating overturning of *Roe v. Wade*.



## VOTING RIGHTS

### Same-Day Voter Registration (H 5770)



This proposed constitutional amendment would remove the state Constitution's onerous provision that bars individuals from voting in an election, except for President, unless they have registered to vote at least 30 days in advance, one of the longest time periods in the country. Allowing qualified individuals to register to vote closer to an election greatly amplifies public participation in the franchise, and this amendment would give the General Assembly the ability to do that.

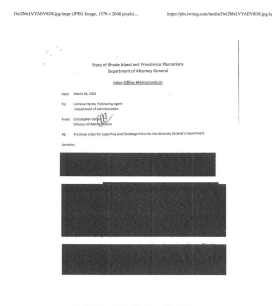
### Voter ID Repeal (S 364)

A law enacted in 2012 requires all voters in Rhode Island to present photo ID at the polls on Election Day. The ACLU supports repeal of this law because there is no evidence it has prevented voter fraud, but it has presented an unnecessary barrier to voting. The evidence is clear that voter ID laws like this disproportionately disenfranchise lower income residents, people with disabilities, the elderly, and people of color.

## OPEN GOVERNMENT

### Access to Public Records Act Reform (H 5454, S 420)

This legislation would make comprehensive changes to strengthen the state's Access to Public Records Act. Among the numerous proposed revisions to the law are provisions that would grant the public greater access to records of police misconduct, vastly reduce the charges that public bodies can impose for providing records, and require that any documents to be discussed at a meeting of a public body would be made available electronically in advance of the meeting.



### Remote Access to Public Meetings (H 5722)

Taking lessons from the pandemic, this legislation would make it easier for residents to participate in local government by allowing advisory boards and commissions to hold meetings via videoconference and also by allowing residents to testify remotely at city and town council, planning, zoning and school committee meetings.

## IMMIGRANTS' RIGHTS

### 364 Day Misdemeanors (H 5361)

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. This one-day tweak 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.

### Immigrant Tenant Protection (H 5689, S 390)

This legislation would bar landlords from inquiring about a prospective tenant's immigration status. Such inquiries are often a proxy for discrimination based on an applicant's appearance, surname, ethnicity or race, and some unscrupulous landlords use knowledge of a tenant's undocumented immigration status to deter them from reporting housing violations.

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

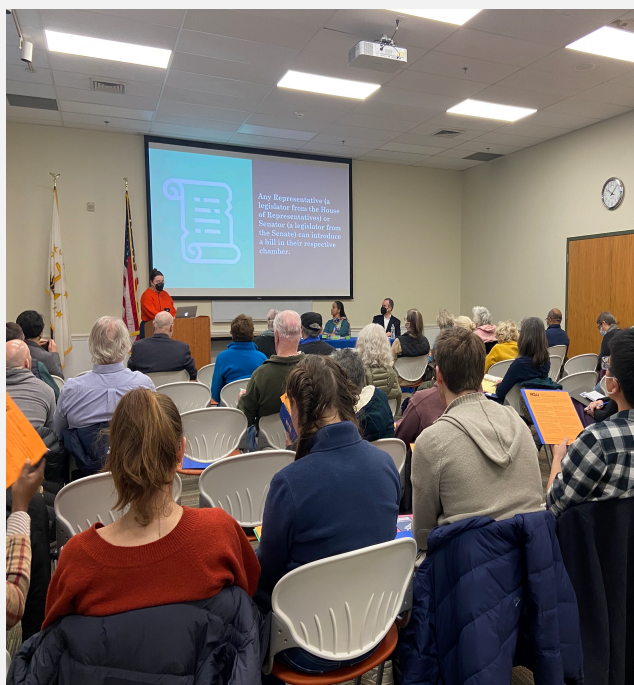
## COURT DENIES REQUEST FOR INJUNCTION AGAINST REMOVAL OF CAMPING PROTESTORS FROM STATEHOUSE GROUNDS

Following the filing of a complaint by the ACLU of Rhode Island and the R.I. Center for Justice on behalf of two dozen homeless individuals who were camping at the State House to protest the lack of adequate housing for individuals in Rhode Island, a Superior Court judge denied an injunction which would have prevented the removal of these individuals after Governor McKee issued a “notice to vacate” to the campers.



The complaint noted that many of the plaintiffs selected the State House grounds to locate their tent because “they wish to convey a message that they are in need of and unable to access adequate shelter and they believe that the message is best conveyed by their continuing physical presence at the seat of Rhode Island government.” The suit argued that the “grounds of the State House are a traditional public forum where the Government’s ability to limit protected speech and expression is at its most constrained.”

After hearing oral arguments, however, Judge David Cruise rejected the plaintiffs’ arguments and authorized the dismantling of the encampment to proceed. Following the court hearing, the ACLU of RI and the Center for Justice issued a joint statement and said: “Eliminating this protest may prevent some people from having to directly confront a visible example of the state’s housing crisis, but it only hides the problem and denies the exercise of a fundamental freedom.”



### RECAP: 2023 Legislative Advocacy Training

Thank you to everyone who joined us at our 2023 Legislative Advocacy Training on January 28<sup>th</sup> at the Weaver Public Library!

We were thrilled to be joined by so many community members to talk about the legislative process and opportunities for advocacy.

The ACLU of RI would like to thank former state Representative Liana Cassar, who provided invaluable perspective on the legislative process and the most effective tools for testifying and lobbying.

As always, you can access any of our Advocacy 101 materials on our website at [riaclu.org/legislation!](http://riaclu.org/legislation!)

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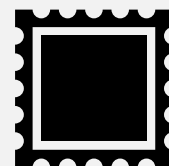
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**UPCOMING EVENT**

**Put your advocacy  
skills to work!**

Join the ACLU of RI for a postcard writing event and ice cream social! Our lobbyists will give a short presentation about priority bills, followed by a postcard writing activity on important 2023 legislation!

**Tuesday, April 11, 2023**  
**6pm-7pm**  
Courthouse Center for the Arts  
3481 Kingstown Road  
West Kingston, RI 02892



**To: ACLU of RI Member!**

