



## WAR ON DRUGS REIGNITES, WOMEN'S ISSUES FALTER IN MIXED 2018 GENERAL ASSEMBLY SESSION

In January, it seemed that 2018 should be the year of #MeToo, but when the General Assembly adjourned at the end of a rare Saturday session that nearly went into Sunday, the legislature had failed to approve bills ensuring equal pay for equal work, or any of a package of proposals that had emerged from a study commission tasked with making recommendations to address sexual harassment in the workplace.

Instead, the legislature approved an overly broad “revenge porn” proposal fought for years by the ACLU and media groups, exacerbated the War on

Drugs by passing legislation allowing the imposition of life sentences on drug-addicted Rhode Islanders for the death of someone with whom they use drugs, and provided financial incentives to school districts to hire more police officers for schools.

However, there were also bright spots for civil liberties: among other positive measures, the General Assembly approved legislation proposed by the ACLU that limits the shackling of pregnant prisoners, as well as a bill ensuring that people’s gender identity is respected on their death certificates. But the ACLU’s greatest successes were in beating back dangerous proposals that appeared to be on the verge of passing during a nail-biting end to the session, including: an Attorney General bill designed to dismantle a cell phone location privacy law passed with the ACLU’s assistance only two years ago, a full-press effort to pass a literally life-threatening bill allowing for the involuntary commitment of substance abusers, and clearly unconstitutional legislation aimed at restricting panhandling. And while Governor Raimondo vetoed only three bills this session, the ACLU’s opposition was noted in two of her veto messages. These battles demonstrated clearly the important role the ACLU of RI plays in being eternally vigilant.

In this newsletter, you can read about these and other bills the ACLU of RI lobbied on this year. We’ve also included a special insert showing how your legislators voted on some key issues in 2017-2018. You can learn more about the 2018 legislative session – and read our testimony on dozens of bills – on our website at [www.riaclu.org](http://www.riaclu.org). And you can keep up with us all year long by liking us on Facebook or following @RIACLU on Twitter.

Lastly, thank you to all who raised your voices this year and pushed your legislators to protect civil liberties. As you’ll see, your work helped make for some tough battles and better legislation, and we couldn’t do our work without you.

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Want to learn more about advocating for civil liberties at the General Assembly? Visit [www.riaclu.org/legislation](http://www.riaclu.org/legislation) and click on ADVOCACY TOOLKIT for more information on legislative advocacy.

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## FROM THE DESK OF THE EXECUTIVE DIRECTOR

As in past years, our Affiliate lobbied on more than 300 bills this year, and many legislators (and the Governor, as evidenced by two of her vetoes) continued to recognize the value and importance of our involvement in the process.

While the outcome of the session can only be called a mixed bag for civil liberties, there is no question that our presence had a major impact on dozens of bills. And as this newsletter shows, sometimes it is the bills that die that are more important than the ones that pass.

We've done our job – now it's time for you to do yours by getting out to vote this fall! I hope you'll also make use of our voting scorecard to thank or question your Representative and Senator on their votes on issues that are of most importance to you. Your phone calls, your emails, your conversations with them truly do make a difference.

If you want to learn more about the session, visit our website. In the meantime, thanks for your support!  
--Steven Brown

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## WAR ON DRUGS

### Drug Dealer Life Sentences (“Kristen’s Law”) – PASSED 👍

The opioid overdose crisis took center stage this year, but in a sharp reversal from the advances of previous years, the General Assembly sought punitive, in addition to treatment-based, solutions. Among the most dangerous pieces of legislation the Attorney General put forth was a measure authorizing a life sentence for anyone who provides an unlawful controlled substance to a person when consumption of that substance results in the person's death. The ACLU joined sixteen other community, public health, and drug recovery groups and more than sixty medical professionals in calling on the General Assembly to reject the legislation, noting that it is low-level dealers and users, not drug kingpins, who would be penalized by the law, and that individuals would be less likely to call for life-saving help if they fear they could serve a life sentence if that help comes too late. Both the House and Senate engaged in lengthy debates on the legislation, but ultimately approved the proposals. The ACLU and others made a similarly unsuccessful plea to the Governor for a veto. (H 7715A as amended, S 2279B)



### Involuntary Commitment of Substance Abusers – DIED 👍

A second proposal similarly threatened to discourage drug-addicted Rhode Islanders from seeking help by allowing for their involuntary commitment if they were deemed a danger to themselves or others. A recent study from Massachusetts indicates that people who are involuntarily detoxed may be twice as likely to die of an overdose once their treatment ends than those who receive treatment voluntarily. The proposal also raised unresolved questions as to how to prioritize the already-limited treatment beds available for people with substance use disorders. The House engaged in an extended debate before approving the legislation, but it was never considered by the Senate. (H 7725A as amended)

### Overdose Review Team – PASSED 👍👍

The Department of Health proposed legislation establishing a multi-disciplinary team to review overdose deaths, ostensibly to identify emerging overdose trends and reduce future deaths. The inclusion of several law enforcement officials on these teams, however, sparked ACLU concerns that such reviews could skew away from public health and toward police investigations. This concern was only heightened by the passage of the “drug homicide” bill cited above. The ACLU proposed amendments to keep the team's focus on public health, but the General Assembly instead compromised by passing the bill with a two-year sunset clause. (H 7697A, S 2577B)

## ABORTION

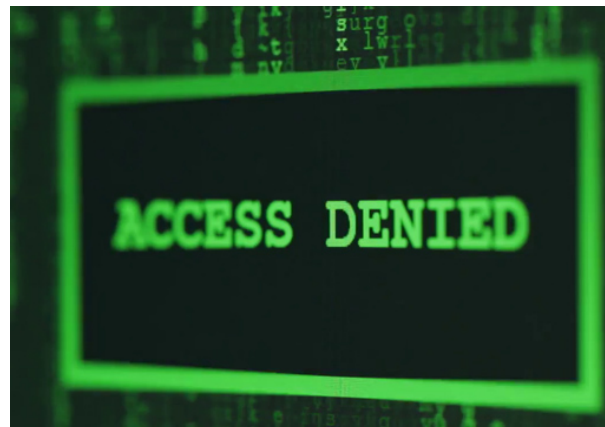
### Reproductive Health Care Act – DIED 👍

With the constitutional protections of *Roe v. Wade* hanging in the balance in light of a divided U.S. Supreme Court – concerns that have only heightened with the resignation of Justice Anthony Kennedy – a pro-choice coalition, of which the ACLU is an active member, made a major push this year to ensure that the reproductive rights Rhode Islanders have today continue regardless of what happens in the courts tomorrow. To that end, the coalition promoted legislation codifying the principles of *Roe v. Wade* into state law, and repealing a number of statutes, such as a spousal notice requirement, that remain on the books despite having been declared unconstitutional. The General Assembly took no action on the bill, making constituent outcry all the more important in the near future. (H 7340, S 2163)

## FIRST AMENDMENT

### Net Neutrality – DIED 👎

Governor Raimondo commendably signed an executive order in April to address the issue, but the General Assembly failed to take long-term action on legislation to protect net neutrality in Rhode Island beyond the end of this Governor's term. The legislation would have prohibited state-purchased or funded Internet Service Providers from halting, slowing, or otherwise tampering with the transfer of data, thus ensuring fair and equal access to all internet content. The Senate approved the legislation, but the House failed to act. (H 7422, S 2008A)



### “Revenge Porn” – PASSED 👍

Perennial legislation, vetoed by Governor Raimondo in 2016, criminalizing the electronic transmission of sexually-explicit images without the person's consent regardless of the intent behind the transmission, became law this year. The ACLU, the New England First Amendment Coalition, and the RI Press Association noted that the broadly worded legislation would criminalize publishing some of the images from Abu Ghraib, along with other newsworthy photos. Minor revisions made to this bill following the Governor's 2016 veto failed to alleviate the groups' concerns, but the Governor signed the bill into law regardless. (H 7252A, S 2581A)



### Panhandling Ban – DIED 👍

Rarely are bills outwardly defeated in committee, but such was the case when ten of fifteen House Judiciary committee members voted against legislation that would have made it illegal for a driver or passenger to pass anything from inside a vehicle to any individual outside the vehicle while in “an active lane of travel.” The bill was the latest of a number of state and municipal attempts to address panhandling, not by resolving the issues that force individuals to panhandle in the first place, but by unconstitutionally punishing them for their poverty. (H 8128)

### Neo-Nazis v. Free Speech – DIED 👍

This year, the Senate considered a resolution encouraging “law enforcement officials to recognize white nationalist and neo-nazi groups as terrorist organizations.” But protecting the freedom of speech we hate is the benchmark of the First Amendment. In past decades, law enforcement agencies could have similarly justified their infiltration of the Communist Party and anti-war and civil rights movements and, more recently, covert monitoring of Muslim organizations for not supporting, to quote the resolution, the nation's “foundational principles” or for reigniting “social animosities.” The resolution died in committee. (S 2696)

### Tax Credits for Scholarship Organizations – DIED 👍

No action was taken on a bill expanding a tax credit for businesses that make donations to “scholarship organizations” that funnel money to private and parochial schools for tuition purposes. The ACLU argued that even indirectly expanding the aid the state provides to private schools while public schools struggle undermined the state's commitment to public education. Presently, religious schools receive a large bulk of the aid. (H 7055)

### “Porn Tax” – DIED 👍

In another rare move, a bill requiring Internet Service Providers to block sexual and “patently offensive” content and then force users to pay to deactivate the block was swiftly withdrawn after widespread condemnation of the blatantly unconstitutional proposal. Courts have repeatedly protected the freedom of Internet speech and barred content-based taxes on speech. The ACLU further noted the demonstrable failures of Internet filtering technology that would make the whole scheme unworkable in any event. (S 2584)



## DUE PROCESS

### Traffic Fine Payments – DIED 🙅

Currently, drivers who receive fines must pay the entirety of those fines or their license is suspended. Nationwide, similar requirements have sparked headlines as individuals are caught in a vicious circle – struggling to pay their fines only to find their licenses suspended, and thus unable to get to work to make money and therefore unable to pay the remainder of their fines. The Senate passed, but the House did not act upon, legislation allowing drivers a hearing to prove their inability to pay these fines and authorizing the establishment of payment plans or reductions in fines as needed. The ACLU will work for the bill's enactment next session. (H 7594, S 2433)

### Juvenile Interrogation Procedures – DIED 🙅

Children are, not surprisingly, less able than adults to understand their legal rights while interrogated, and an ACLU-promoted state law generally protects children who are questioned while at school by requiring a guardian be present. Yet, if the child's first interaction with a police officer occurs off campus, a child can be interrogated as if they were an adult. The Senate passed, but the House did not act upon, legislation supported by the ACLU requiring that a minor have a parent or guardian present during questioning by law enforcement. (S 2340)

### “Red Flag” Gun Law – PASSED 🙌🙌

The ACLU raised serious due process concerns with the introduction of this legislation, prompted by the tragic school shooting in Parkland, Florida, allowing for the removal of firearms from individuals who pose a “significant danger of causing personal injury to self or others.” In a 14-page analysis of the legislation, the ACLU noted that the breadth of the standards for seizing and retaining a person's firearms raised serious due process concerns. The General Assembly took many of those concerns into account in passing a significantly revised version of the legislation that was signed into law. (H 7688A as amended, S 2492A)



### Speed Camera Limitations – PASSED 🙌

The ACLU opposed the original speed camera legislation, passed in 2016, on privacy and due process grounds while noting that the technology is more about revenue-raising than public safety. Those warnings were proved correct when



the cameras were turned on in 2017, and this year the General Assembly scrambled to fix their mistakes. Ultimately, the legislature approved a bill allowing the operation of the cameras only during days and times school is actively in session, and requiring detailed signage to let drivers know of the cameras' existence. (H 7956B as amended, S 2688A as amended)

### Animal Abuse – PASSED 🙌

A few years ago, the General Assembly granted judges the discretion to bar animal abusers from owning animals for a period of years. This year, the General Assembly overwhelmingly approved deeply troubling legislation requiring judges to bar from owning animals not only anyone convicted of “unnecessary cruelty,” but any other

offense relating to animals. This includes a variety of offenses where the person did not actively seek to harm an animal, such as shearing horses in winter, releasing caged animals from a park or zoo, or failing to properly register with the Department of Health when using animals for research. In addition to prohibiting these individuals from owning or residing with animals for up to five years, the legislation also makes the second of any of these offenses - some of which only carry penalties of a few hundred dollars - felonies punishable by up to six years in prison. The ACLU requested a veto from Governor Raimondo, but the legislation was signed into law in July. (H 8170 as amended, S 2135A)

## PRIVACY

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### Cell Phone Location Tracking – DIED 🍑

Just two years ago, the General Assembly approved ACLU-backed legislation requiring law enforcement officials to obtain a warrant before requesting cell phone location data information, except in emergencies, and requiring the person whose location had been tracked to be notified at some point after the fact about it. Almost immediately, the Attorney General sought to undermine that law by promoting legislation allowing law enforcement to keep people in the dark indefinitely if their location had been tracked. The Senate approved this problematic legislation, as did the House Judiciary committee, but - in a textbook example of why the ACLU remains at the State House until the very end - the bill was sent back to committee on the last day of session due to opposition engendered by our lobbying. (H 7451, S 2291)

### Real Estate Marijuana Disclosure – DIED 🍑

The state's medical marijuana law was crafted to put a high priority on patient privacy, but that would have been undermined by legislation that required disclosure in real estate transactions if the cultivation of any marijuana had taken place on the premises. This proposal placed medical marijuana patients into the bind of having to either admit on paper to growing marijuana - increasingly being cracked down on by federal officials - or be accused of fraud for not disclosing their cultivation. Governor Raimondo agreed the legislation was problematic and vetoed it at the request of the ACLU and the RI Realtors Association. (H 8354, S 2442)



## STUDENTS' RIGHTS

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### Over the Counter Medications – DIED 🍑

Current Department of Health regulations require students to have doctor or parental permission to bring and use any over the counter medication on school property, a regulation so stringent that it is no surprise that it is routinely ignored. The House passed a bill proposed by the ACLU that would have overturned the regulation as it applies to high school students, but the Senate took no action. (H 7570, S 2340)

### School Resource Officers – PASSED 🍑

A provision in the adopted budget offering three years worth of funds to schools to help pay the salaries of school resources officers (SROs) all but guarantees that more and more schools will soon have an armed police officer in their halls. Yet, the significant problems that come with SROs remain unaddressed. The ACLU and other groups pushed for language clarifying the responsibilities and limitations of SROs, but no amendments were included in the final budget article. (H 7200A, Article 9)

## MEDICAL PRIVACY

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### Overdose Information Disclosure – DIED 🍑

A bill threatening civil liberties in the name of the opioid overdose crisis came in the form of legislation allowing doctors to break doctor-patient confidentiality by telling family members and friends of a person's addiction status - even over a patient's expressed wishes - in the case of an overdose. As with other bills addressing the opioid epidemic this year in questionable ways, the ACLU raised concerns that this proposal would leave people less willing to seek medical treatment out of fear that their addiction status would be revealed to people they did not wish to have learn about it. The Senate approved the legislation, but it did not receive a hearing in the House. (S 2545A)



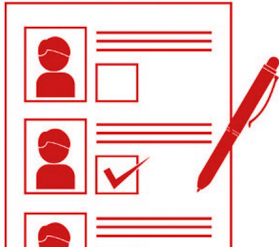
### Adult Immunization Registry – DIED 🍑

The Department of Health continued its recent troubling work to weaken patient confidentiality with proposed legislation this year mandating that a vast array of personal medical information be included in a new "adult immunization registry" unless the patient opted out. The ACLU argued that it should be the patient's choice to opt-in, rather than out, to such a database. The bill passed the Senate but died in the House. (H 7882, S 2530A)

## VOTING RIGHTS

### Early Voting – DIED 🙅

With the majority of states allowing for in-person early voting, Rhode Island's system of requiring everyone to vote on one crowded election day is rapidly becoming antiquated. Early voting eliminates the lines that have plagued voters in many recent elections, and allows greater access to voting for individuals who, for whatever reason, cannot make it to the polls during the one day they are open. However, legislation to establish early voting died in committee. (H 7501, S 2419)



### Limits on Write-In Candidates – DIED 🙅

If, as we often hear, “every vote counts,” voters should have the right to have their votes tallied, even if for a losing cause. Legislation proposed by the state Board of Elections this year to eliminate the counting of write-in votes for persons who did not file in advance a “declaration of intent” eviscerated that right and was opposed by the ACLU. The bill passed the Senate but died in the House. (H 7729, S 2757)

### Presidential Tax Returns – DIED 🙅

The ACLU argued that legislation introduced in direct response to the most recent Presidential election and then-candidate Donald Trump's refusal to release his tax records would set a dangerous precedent. By requiring Presidential and Vice-Presidential candidates to disclose their five most recent federal tax returns in order to qualify for the ballot, this legislation would have added an inappropriate barrier to getting on the ballot. The ACLU of RI has long objected to legislative efforts to impose additional qualifications on candidates to run for office, just as it has decried efforts to create additional barriers in the way of voters, and it is especially problematic for states to do so in the context of federal campaigns. The legislation passed the Senate but died in the House. (H 7877, S 2612A)

## LGBT RIGHTS

### Gender Identity on Death Certificates – PASSED 🙌

No person should face the end of their life worrying if their memory will be negated by someone else's ignorance or, worse, hostility, but such has been the case for some trans Rhode Islanders. Only a small percentage of self-identified transgender individuals undergo gender reassignment surgery, so physical characteristics are not a definitive way to determine gender identity. This legislation, which was signed into law, provides guidelines to a person filling out the death certificate when a decedent's gender identification differs from the gender assigned to them at birth or where a decedent's physical characteristics do not correlate with the decedent's self-identified gender. (H 7765A, S 2614A)

DECEASED (Type or print)		Thomas Joseph	
1. PLACE OF DEATH a. COUNTY			
3b. CITY, TOWN OR LOCATION		3c. LATITUDE OF SEA	
Providence			
3d. NAME OF HOSPITAL OR INSTITUTION (If not in hospital give street address)			
214 River Ave.			
5. SEX	6. COLOR OR RACE	7. MARRIED	8. NEVER MARRIED
M	W	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10a. USUAL OCCUPATION (Give kind of work done during most of working life, even if retired)		10b. KIND OF BUSINESS OR C	
watchman			
11a. FATHER'S NAME		11b. FATHER'S BIRTHPLACE	
Thomas			
12. WAS DISCHARGED BY U.S. ARMY FORCED* (For, no, or unknown) (If yes, give year or date of service)		13. SOCIAL SECURITY	
14. CAUSE OF DEATH (Enter only one cause per line for (a), (b), and (c).)			
PART I. DEATH WAS CAUSED BY			
IMMEDIATE CAUSE (a)		Carcinoma	
LIVER		Liver &	
CONDITIONS, if any, which gave rise to above cause (b)		DUE TO (b)	
DUE TO (c)		DUE TO (c)	

### Veterans' Benefits – DIED 🙅

Prior to the end of “Don't Ask, Don't Tell,” military veterans discharged because of their sexual orientation were often given a “less than honorable” discharge which left them unable to qualify for many benefits they would have otherwise earned, including burial at the veterans' cemetery. “Don't Ask, Don't Tell” is defunct, but the “less than honorable” discharges continue to limit these service members' ability to obtain the same benefits as the veterans they fought beside. The General Assembly considered, but did not act on, legislation to rectify this practice by permitting the recipients of such discharges to qualify for benefits when the discharge was based on their sexual orientation. (H 7204)

## PRISONERS' RIGHTS



### Restricting Shackling of Pregnant Prisoners — PASSED 🙌

Shackling pregnant prisoners is recognized worldwide as a violation of human rights. A restrained pregnant woman cannot move freely or control her balance, placing both her and her fetus at risk. Several years ago, through the ACLU's lobbying efforts, the General Assembly limited the shackling of pregnant prisoners to and from medical appointments and during labor. This legislation, proposed by the ACLU and signed into law, further prohibits shackling prisoners in their third trimester while being transported to and from court. (H 7182S, S 2278A)



## “Civil Death” Repeal – DIED 👎

Rhode Island remains one of only three states to still have on the books a statute declaring as “civilly dead” any person serving a life sentence. The concept is so archaic that the Harvard Law Review called it “outworn as a mode of punishment” in 1937. Rhode Island nevertheless continues to use the law, most recently in a case where the State sought to bar an inmate from bringing a civil rights suit over his living conditions at the ACI because he was “civilly dead” and therefore had no standing to sue. However, no action was taken on legislation to repeal this antiquated law. The ACLU will likely take this battle to the courts. (H 7466, S 2269)

## WORKPLACE RIGHTS

### Equal Pay – DIED 👎👍

Perhaps the most stunning action this year was the overwhelming vote of House members for a bill purporting to address the pay gap between women and men, but which would have actually weakened existing protections. RI’s equal pay law has not been updated in more than half a century; this year, the Senate unanimously approved legislation that would have made critical improvements to it and helped close the wage gap. The House, on the other hand, revised the bill so dramatically that it actually made the current law worse. Among the many changes, the House bill exempted many more occupations from the law, excluded all employers with fewer than eighteen employees, and eliminated the private cause of action aggrieved employees can currently use to seek justice. Despite a lengthy floor debate, the legislation was approved with only nine House members - Reps. Ajello, Hull, Knight, Nunes, O’Grady, Ranglin-Vassell, Regunberg, Tanzi, and Walsh - opposing it. Neither chamber voted on the others’ version and so both bills died. (H 7427A as amended, S 2475A as amended)



### Sexual Harassment in the Workplace Amendments – DIED 👎

In the wake of #MeToo and a House study commission convened in response to a legislator’s claims of sexual harassment, many expected 2018 to be the year RI passed meaningful protections against harassment in the workplace. Among the bills proposed by the commission were ones increasing the time frame for filing claims of employment discrimination, barring employers from requiring new employees to sign agreements that would prevent them from disclosing civil rights violations in the workplace, and expanding the definition of an employee to protect volunteers and unpaid interns from harassment. Despite the promise felt at the beginning of the year, by the end of June none of the bills was brought up for a vote in the House. (H 8276, H 8278, H 8279)

## CIVIL RIGHTS

### Driver’s Education – PASSED 👍

Tragedies during routine traffic stops nationwide prompted the introduction of legislation last year integrating into the current driver’s education curriculum the responsibilities of a driver during a traffic stop. At the urging of the ACLU and numerous community groups, a revised version of the legislation, requiring that drivers also be taught their *rights* during a traffic stop, passed this year. (H 7194, S 3010)

### Ban Gender Rating in Health Insurance – DIED 👎

The General Assembly once again failed to address gaps in the law that allow women to be charged more than men, solely because of their gender, for the same health insurance. This process, known as “gender rating,” is illegal under the Affordable Care Act for large employers but gaps in the law allow the practice to continue. The Senate has passed a version of this legislation, designed to fix the problem, every year for several years, but the House has never acted. (H 7363, S 2399)

### Service Dog Fraud – DIED 👍

Well-intentioned legislation making it a crime to fraudulently portray a pet as a service animal sparked concerns from the ACLU that it conflicted with the Americans with Disabilities Act and authorized businesses to inappropriately interrogate individuals with genuine service animals about their disabilities. Along with the Governor’s Commission on Disabilities, the ACLU helped draft amendments to address these issues. The amendments were approved by the House, but the Senate never acted on the legislation. (H 7612A as amended, S 2432)

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## **POLL MONITORS NEEDED**

The ACLU of Rhode Island is looking for poll monitors for the September and November elections. Shifts and locations are flexible. First-time poll monitors welcome; training will be provided. Email [info@riaclu.org](mailto:info@riaclu.org) or call (401) 831-7171 to learn how you can help protect civil liberties at the polls!

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