



# BUILDING POWER IN OUR COMMUNITIES 2021 LEGISLATIVE SESSION REPORT

**ACLU**  
Florida

# INTRODUCTION

Over the last year, we rode an emotional, economic, and healthcare roller coaster together. We experienced loss throughout the COVID pandemic and at the hands of the police. We also experienced a dangerous, white supremacist insurrection at the U.S. Capitol spurred by former President Trump and lawmakers who refused to acknowledge the results of the 2020 presidential election.

We dealt with fundamental attacks on our democracy in legislatures across the country, including in Florida. Over the course of 60 days, Gov. Ron DeSantis and his allies forced through laws that criminalize peaceful protesters and shield counter-protesters from civil liability for killing or injuring a demonstrator. They also enacted voter suppression schemes that will make it harder for Floridians to vote by mail and will disproportionately impact Black, elderly, mobility-impaired, student and veteran voters; and they callously discriminated against transgender girls by banning them from playing on sports teams that align with their gender identity.

The cruelty we witnessed during the 2021 legislative session highlights the fundamental disconnect between Florida elected officials and the people. The more that Floridians express and champion their ideals, the more politicians in Tallahassee work to enact legislation to undermine the power of our communities.

What we know at the ACLU of Florida is that, in these challenging times, our work is more critical and necessary than ever, and it may be some of the most important work we have engaged in over the last decade. This work includes engaging directly with communities closest to the issues and reimagining solutions to the problems that plague our state. It also

includes strategizing daily with our partners and stakeholders to empower people to make their voices heard, to change the civil liberties landscape in Florida, and make our state truly a place where all Floridians can thrive.

We saw firsthand over the 60-day legislative session how much Floridians care about improving and advancing our democracy. Despite all efforts to thwart our voices, the commitment in our communities to change the political and social landscape of Florida is stronger than ever and will prevail.

The 2021 Florida legislative session created more challenges than solutions, but the movement continues undeterred. We will not stop until Florida is a place of opportunity for all. Along with our supporters and partners, we will continue to work toward and achieve a Florida we can all believe in.



**60** days in the Legislative Session



**162** bills were monitored and **32** bills were prioritized by the ACLU of Florida



**45,860** supporters and volunteers engaged in our actions



**204,000** emails sent to legislators and state officials



**10** supporter trainings conducted

# 2021 LEGISLATIVE SESSION BILL SUMMARY

1

## House Bill 1: Anti-protest

House Bill 1 chills free speech, silences dissent, and criminalizes peaceful protest. The law creates new criminal penalties for protestors, intensifies criminal and civil penalties for various protest activities, and allows Governor DeSantis to override a municipality's decision to reduce the operating budget of its police department if the budget is appealed by a State Attorney, county, or city commissioner. The law also provides special protection to monuments, memorials, and "historic" objects and allows vigilantes and counter-protesters to escape civil liability for killing or injuring a protester with their car or by any other means.

OPPOSED

ACLU of Florida opposed  
Signed into law by DeSantis  
ACLU of Florida sued



2

## Senate Bill 90: Voter Restrictions

Senate Bill 90 makes it harder for Floridians to cast a ballot by mail and creates unnecessary hurdles to election administration in Florida. It restricts secure vote-by-mail drop boxes, requires voters to submit vote-by-mail requests each election cycle, and demands unnecessary and sensitive personal information when voters request a mail ballot. It also criminalizes giving food and water to people waiting in line to vote.

OPPOSED

ACLU of Florida opposed  
Signed into law by DeSantis



3

## Senate Bill 1890: Obstructing the Citizen Initiative Process

Senate Bill 1890 chills the citizen initiative process and violates Floridians' First Amendment rights by capping the individual contribution limit to ballot initiatives at \$3,000.

OPPOSED

ACLU of Florida opposed  
Signed into law by DeSantis  
ACLU of Florida sued



4

## Senate Bill 1028 (incorporating HB 1475): Anti-trans youth sports ban

Senate Bill 1028 (incorporating HB 1475) denies transgender girls and many non-binary youth the opportunity to play sports on teams that match their gender identity from middle school through college. It denies transgender youth the critical life lessons that come from playing sports like teamwork, dedication, and the ability to lose with grace and win with humility.

OPPOSED

ACLU of Florida opposed  
Signed into law by DeSantis



5

### House Bill 241: So-called Parental Bill of Rights

House Bill 241 infringes on students' privacy rights, potentially outing LGBTQ students to unsupportive parents. It also places those children at risk by forcing the disclosure of sensitive information relayed in confidence to a trusted school counselor, such as information regarding a student's questioning of their sexual orientation or gender identity.

OPPOSED

ACLU of Florida opposed  
Signed into law by DeSantis



6

### House Bill 1221: Abortion Ban

House Bill 1221 would have banned abortion in circumstances where a pregnant person receives a diagnosis of a fetal anomaly, denying those Floridians essential healthcare.

OPPOSED

ACLU of Florida opposed  
Died in the House



7

### Senate Bill 1032: Encouraging Rehabilitation in Prison

Senate Bill 1031 would have incentivized participation in educational and vocational training and other rehabilitative activities in Florida's prisons by allowing individuals to earn time off their sentence by engaging in productive activities and demonstrating the desire to turn their lives around.

SUPPORTED

ACLU of Florida supported  
Died in Senate  
Appropriations Committee



8

### House Bill 557/Senate Bill 386: Ending driver's license suspensions for non-driving offenses

House Bill 557/Senate Bill 386 would have ended the practice of suspending driver's licenses for non-driving offenses. It would have also provided procedures for affordable payment plans for people who have been burdened by overdue fines and court fees.

SUPPORTED

ACLU of Florida supported  
Died in House and Senate  
Committees



9

### House Bill 7051: Modest Police Reforms

HB7051 creates minimum basic standards training for law enforcement. If signed into law, the bill will require law enforcement and correctional officer applicants to disclose to future criminal justice system employers any pending investigations for criminal, civil, or administrative wrongdoing.

SUPPORTED

ACLU of Florida supported  
Passed in the Legislature,  
Waiting for DeSantis to  
sign into law



# CHALLENGING GOV. DESANTIS'S ASSAULT ON THE RIGHT TO PEACEFUL PROTEST

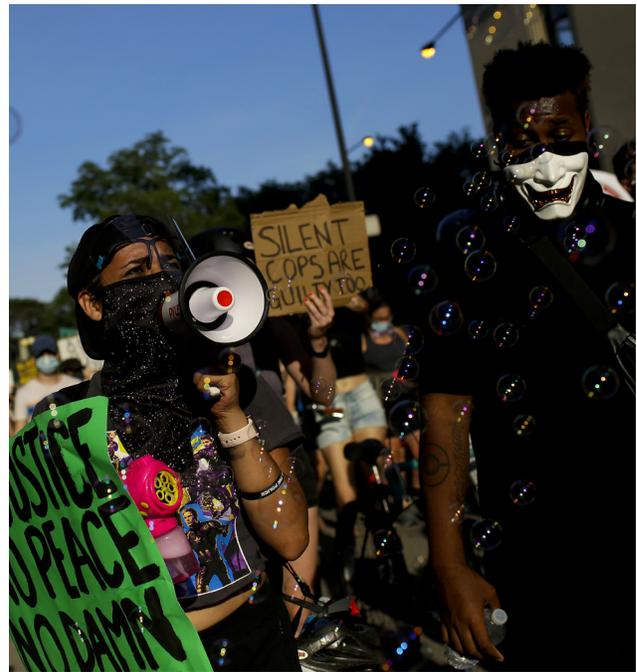
The First Amendment to the U.S. Constitution guarantees “freedom of speech” and “the right of the people to peaceably assemble and to petition the government for a redress of grievances.” It ensures the right to peaceful protest.

During the 2021 session of the Florida Legislature, Governor Ron DeSantis and his legislative allies waged an all-out attack on that constitutional right. House Bill 1 (HB 1) was spearheaded by DeSantis in response to the more than 26 million people who took to the streets to call for police accountability and justice after the gruesome murders of George Floyd, Breonna Taylor and Rayshard Brooks. More than 95 percent of those protests in Florida were peaceful, requiring no police intervention at all. But DeSantis, instead of addressing unabated police violence, chose to pursue the most extreme provisions possible with the goal of chilling free speech in Florida, especially by Black people and their allies.

The ACLU of Florida and partner organizations opposed the bill tenaciously in the Legislature, where it ultimately passed on a party-line vote, despite the fact that 63 percent of the public opposed it. Not long after DeSantis signed the bill into law, surrounded by law enforcement officials, the ACLU of Florida, NAACP Legal Defense and Educational Fund, Community Justice Project, and Akin Gump Strauss Hauer & Feld LLP filed suit in federal court challenging its constitutionality. The lawsuit was filed on behalf of several Black-led organizations: the Black Collective, Black Lives Matter Alliance Broward, Chainless Change, Dream Defenders,

the Florida State Conference of the NAACP, and the Northside Coalition of Jacksonville.

HB 1 is a systematic assault on liberty. It provides that any person participating peacefully in a protest can be charged with a felony if other individuals in the crowd engage in violent conduct or property destruction. In other words, you can be charged with a crime even if you do nothing wrong and don't even know the people who did. This creates the possibility that individuals opposed to a protest could infiltrate it and create havoc, leading police to declare the protest a riot, shut it down and haul everyone to jail, where they will be denied bail until they can appear before a judge. The felony charge carries a potential five-year sentence and loss of voting rights—again, for simply exercising a constitutional right.



HB 1 also undermines local elected officials' ability to set public policy and work collaboratively with law enforcement and community members. It invites costly litigation against municipalities by holding them liable for any amount of damages resulting from a protest deemed a 'riot or unlawful assembly' if law enforcement wanted a more heavy handed response than the local government authorized. This incentivizes local elected officials to defer to police when setting public policy, regardless of other priorities or what voters actually want. It also incentivizes a militaristic law-enforcement response rather than a public safety response respecting the right to protest.

But DeSantis's new law doesn't stop there. It dictates that if the governing body of a municipality attempts to reallocate any funding for their local police department, any dissenting member of that body or the local state attorney can appeal that decision to the Florida Administrative Commission. That commission consists of DeSantis and the members of his Cabinet. They can reverse that local funding decision. In other words, funding for all law enforcement agencies statewide will be in the hands of DeSantis and his allies in Tallahassee despite the wishes of local taxpayers. When budgets are tight, municipalities may be forced to make cuts to other critical public services in order to maintain current police funding levels, regardless of whether funding for the other services is more necessary to meet the community's public health and safety needs.

HB 1 makes damaging or destroying any memorial or historic property, broadly defined to include pulling down a flag or spray painting graffiti on shrines to the Confederacy—a crime punishable by up to 5 or 15 years in prison.

Perhaps most galling, the law protects from civil liability anyone who kills or injures a protester or destroys a protester's property.

HB 1 will embolden vigilantes to engage in violence against protesters. Instead of penalizing those who drive their cars into protesters, HB 1 shields the driver from having to pay any monetary damages.

These cruel, unconstitutional policies combine to usher in a revival of the Jim Crow era with laws custom-tailored to silence people of color and their allies advocating for racial justice. HB 1 is a blatant act of political repression spearheaded and pushed forward at every step in the legislative process by Gov. DeSantis.

“HB 1 is racist, unconstitutional, and anti-democratic, plain and simple,” said Micah Kubic, executive director of the Florida ACLU. “It was introduced as a political stunt after a year of historic protest, in which millions of Americans joined together to call for an end to the disparate killings of Black people at the hands of police.”

Through HB 1, the state is criminalizing our communities, creating new and enhanced felonies for simply participating in a demonstration that turns violent through no fault of their own. Every time they attend a peaceful protest, Floridians are now at risk of losing access to business licenses, housing, jobs, their right to vote and more—completely disrupting their ability to live and thrive in this state. HB1 is an assault on Black lives and democracy in Florida. That is why the ACLU of Florida and our partners are challenging this unconstitutional law.

# FIGHTING CONTINUED VOTER SUPPRESSION EFFORTS IN FLORIDA

Starting in the late 1980s, Florida became a leader in the use of vote by mail.

The COVID-19 pandemic spurred the use of mail-in ballots even more. A total of 11.1 million Floridians voted in the 2020 general election. Of those, 4.8 million, or 43 percent, voted by mail, including 1.5 million who used secure drop boxes to safely and securely return their ballots. This shortened lines at the polls and made social distancing easier during the pandemic. Afterwards, Gov. Ron DeSantis, Supervisors of Election, and legislative leaders heralded Florida's elections as the most efficient and effective in the state in recent history.

Yet, the governor and his allies in Tallahassee were determined to use the 2021 session of the Florida Legislature to make it much harder to vote by mail in Florida. They introduced Senate Bill 90, a blatant voter suppression measure that passed on a mostly party-line vote. Those supporting it, while acknowledging that they did not see problems in Florida, claimed the bill would make our elections more secure when, in reality, it does nothing but throw obstacles in the way of Florida voters.

Under Florida law prior to the passage of SB 90, vote-by-mail ballot requests were valid for two election cycles. SB 90 shortens that time frame, placing additional burdens on voters by unnecessarily requiring Floridians who want



to vote by mail to submit their request each election cycle, twice as often as they needed to prior to SB 90's passage. There is also no requirement for the state to notify these voters of the change. This will lead to voter confusion as well as the potential for voters to miss the deadline due to the increased frequency in which requests must now be made, which will likely have a disproportionate impact on the ability of mobility-impaired, elderly, student, and veteran voters to vote by mail.

This new voter suppression law also creates unnecessary election administration work for county elections officials and will result in increased costs to Florida taxpayers. County elections supervisors overwhelmingly opposed SB90, saying it would only cause "chaos and confusion."

SB 90 will also greatly restrict the use of vote-by-mail ballot drop boxes, which have proven to be secure, efficient, and convenient. Previously, some counties allowed voters to drop off their ballot at a drop box at their own convenience. Now, most drop boxes will only be accessible during daytime hours when polls are open for early voting, and all drop boxes will have to be continuously monitored in person by an employee of the supervisor of elections. This creates unnecessary limits on the number and location of drop boxes, making it harder for voters who cannot get to the polls during voting hours—due to work, child care, or other demands—to drop off their ballot.

The new law also adds additional and unnecessary identification requirements for those requesting absentee ballots; limits who can collect and drop off ballots for those in need of assistance; and provides partisan observers with greater access to the ballot-counting process, creating greater likelihood of disruption and unwarranted signature-matching challenges.

These new provisions serve no purpose except to make it harder for Floridians to vote by mail and have their voices heard and counted. SB 90 is part of a nationwide voter suppression effort by legislatures across the country designed to win political points with those who reject the legitimacy of the 2020 presidential election. SB 90 also makes it harder to vote in person: it criminalizes anyone, apart from elections officials, who gives food or water to a person waiting in line to vote. This, in a state still burdened by the memory of six-hour lines in the 2012 election.

In signing SB 90, DeSantis jumped on the national bandwagon being piloted by politicians who want to make it harder for people to vote. Black voters and voters from marginalized communities will be the most affected by the newest obstacles. The state of Georgia led the way, but Florida and other states were not far behind. In this year alone, more than 360 voter suppression bills have been filed in 47 states, and 220 anti-protest bills have been filed in 45 states.

“ Instead of upholding the fundamental right to vote, Florida decided to become an accomplice to the nationwide voter suppression scheme underway by passing this undemocratic bill,” said Kara Gross, legislative director and senior policy counsel for the ACLU of Florida.

Our partners, including the NAACP Legal Defense and Educational Fund, Black Voters Matter, the League of Women Voters of Florida, and more, have filed challenges in federal court against the voter suppression bill.

# PROTECTING THE CITIZEN INITIATIVE PROCESS

In 1968, Florida voters adopted a constitutional amendment procedure that gave the state’s citizens the “power to propose the revision or amendment of any portion or portions of [the state] Constitution by initiative.”

In the ensuing half-century, Floridians have put 42 measures on the ballot for their fellow citizens’ consideration, and voters have approved 32 of them. These initiatives include raising the minimum wage, protecting water and land conservation, legalizing medical cannabis, adopting fairer redistricting rules, and restoring voting rights to 1.4 million Floridians. The popularity of these initiatives illustrates the importance of the citizen initiative process in a time when legislators are increasingly ignoring the demands of their constituents.

In response to those victories for Florida

voters, the Legislature has repeatedly obstructed the initiative process by making it harder and costlier for Floridians to propose a constitutional amendment and get it on the ballot. Since 1976, the Legislature has passed dozens of bills to further tighten access to Florida’s already restrictive citizen initiative process.

This year, the Legislature adopted Senate Bill 1890, the latest attempt to make it more difficult for Floridians to enact change in their state. The bill was designed to chill free speech and the right of association in Florida, as protected by the First and Fourteenth Amendment. It imposes a \$3,000 limit on contributions made by individuals to sponsors of state ballot initiatives. It also creates criminal penalties for individuals who contribute more than this amount, including imprisonment and hefty fines.

Given the extraordinary cost of collecting





petition signatures needed to qualify for the ballot and to defend an amendment at the Florida Supreme Court, the bill would essentially nullify Floridians' direct democracy rights. SB 1890 would violate longstanding First Amendment case law. Decades ago, Florida adopted a contribution cap for all political committees, and the U.S. Court of Appeals and Supreme Court struck down that limit as violating the First Amendment, which protects the freedom to express views on political matters, including to advance ballot measures.

Still, Gov. DeSantis signed SB 1890 into law on May 7. The ACLU of Florida filed a lawsuit to challenge the law the following morning.

SB 1890 is a direct response to voters passing constitutional amendments that benefit all Floridians when the Legislature has refused to act in the public's best interests. The people's right to direct democracy through the ballot initiative process is enshrined in Florida's Constitution. The ACLU of Florida believes elected officials should not be making it harder for Floridians to have a say in the policies that affect their lives. We look forward to our day in court.

# LGBTQ+ STUDENT AND YOUTH RIGHTS UNDER ATTACK

LGBTQ+ student and youth rights suffered during this legislative session, primarily due to attacks on transgender youth and privacy rights.

The Legislature attacked the health, safety and privacy of transgender kids through legislation banning their participation in sports consistent with their gender identity. The ACLU of Florida fought against House Bill 1475, an anti-trans youth sports ban bill, only to see it resurrected at the 11th hour as part of an unrelated charter school bill, SB 1028. The law will deny trans girls in middle school, high school, and beyond, the opportunity to participate on sports teams consistent with their gender identity. This was part of a coordinated, national attack on transgender kids that will endanger their mental and physical health, social and emotional development, and safety. Leading medical professional associations and medical providers, women's sports leagues and

women's rights organizations all vehemently opposed this discriminatory legislation. Laws like SB 1028/HB 1475 will have devastating, life-threatening consequences on our most marginalized youth. We will keep fighting against this dangerous and unconstitutional bill.



We must be a state that upholds everyone's right to be treated with equity, dignity, and respect. This unconstitutional bill is in blatant disregard to those rights and has no place in our state," said Kara Gross, legislative director and senior policy counsel. "We will never stop fighting for a Florida where students and trans youth have every opportunity to thrive."





Similarly, the ACLU of Florida opposed House Bill 241, deceptively cloaked in the innocuous title of Parental Bill of Rights. The legislation could infringe on students' privacy rights, potentially outing LGBTQ students to unsupportive parents. It also places those children at risk by forcing the disclosure of sensitive information relayed in confidence to a trusted school counselor, such as information regarding a student's questioning of their sexual orientation or gender identity. Notably, the bill does not give parents the right to be notified before their child is interrogated by police or taken for an involuntary mental health evaluation.

The bill, which awaits the governor's signature, also invites further politicizing of curriculum and instructional materials. It allows parents to object to materials based on their own personal beliefs regarding "morality" and "sex" and their individual opinions as to what materials may be harmful to children. This opens the door to challenges based on materials regarding same-sex couples, LGBTQ students, and even evolution. In order to avoid such challenges, schools may choose to self-censor.

Legislation addressing parental consent and targeting trans youth presented a double whammy of assaults on the rights of Florida's youth by the Legislature. We are committed to defending the rights of all students and young people in Florida.

# LAWMAKERS ATTEMPT TO UNDERMINE ROE V. WADE IN FLORIDA

Every person must have the right to make the reproductive decisions that are best for them and their families. In its most recent attempt to limit reproductive rights, the Florida Legislature attempted to pass House Bill 1221, which would have banned abortion in circumstances where a pregnant person receives a diagnosis of a fetal anomaly, denying those Floridians essential healthcare.

Politics has no place in the medical exam room. HB 1221 would have criminalized physicians for providing abortion care to their patients. This bill would have interfered with the patient-physician relationship and allowed legislators to make the ultimate determination over who can and cannot receive abortion care, which is a medical decision not a political one. The bill would have ultimately prevented people from exercising their right to determine what is best for them and their families. The bill passed the House but fortunately died in the Senate.

Year after year, the Florida Legislature tries to pass legislation that limits Floridians' constitutional right to access an abortion. The ACLU of Florida is committed to opposing these attacks on Floridians' reproductive rights, which are critical to each person's right to privacy and self-determination.



# MISSED OPPORTUNITIES ON CRIMINAL JUSTICE REFORM AND POLICE ACCOUNTABILITY

The 2021 legislative session posed several opportunities to pass common sense criminal justice reforms that would have incentivized rehabilitation in prison, reduced recidivism, increased public safety, and saved hundreds of millions of dollars. That money could have been reinvested in mental health, drug treatment services, educational programming, and vocational skills training. Instead, certain legislators stalled dozens of meaningful criminal justice reform measures and let them die without meaningful consideration.

Senate Bill 1032 would have incentivized participation in educational and vocational training and other rehabilitative activities in Florida's prisons by allowing individuals to earn time off of their sentence by engaging in productive activities and demonstrating the desire to turn their lives around. The bill passed its second committee in the Senate but was never heard in the House.

House Bill 557/ Senate Bill 386 would have ended the practice of suspending driver's licenses for non-driving offenses. It would have also provided procedures for affordable payment plans for people who have been burdened by overdue fines and court fees. The bill passed one committee in the House, and two committees in the Senate but ultimately died.

On policing, the Florida Legislature did pass House Bill 7051, creating minimum basic standards training for law enforcement.

Additionally, if signed into law by the governor, the bill would require law enforcement and correctional officer applicants to disclose to future criminal justice system employers any pending investigations for criminal, civil, or administrative wrongdoing. It also creates a minimum age of arrest, providing that children six and under cannot be arrested.

While the legislation is a step in the right direction, Florida still has a very long way to go regarding the role of police in our communities. Floridians deserve comprehensive policing reform that reallocates resources to support community needs, such as state and local re-entry job training programs, educational programs, mental health counseling, affordable housing, and healthcare options. Significant police reform would also include amending the Florida police bill of rights to remove provisions that impose barriers to accountability, ending qualified police immunity in Florida, and establishing community oversight structures.

In the wake of the murders of George Floyd, Breonna Taylor, and so many other Black people at the hands of law enforcement, there has been universal recognition of the need to reexamine approaches to public safety in America. The ACLU of Florida is committed to actively reducing the role, scale, power, and funding of the police and ending police brutality in our communities.



## CONCLUSION

Attacks against democracy from within our own country have reached their most dangerous level since the Civil War. The number of people in the U.S. today who do not believe in the legitimacy of our legally elected government is unmatched. And, the Florida Legislature has tried its best once again to undermine the power of Floridians.

This year, Governor DeSantis and his legislative allies prioritized passing dozens of undemocratic laws that chip away at the collective rights of all Floridians. They also made it more difficult for the people to have our voices heard, both during their legislative work and for years to come.

While the 2021 legislative session created more challenges than solutions, Floridians have been pushing for pro-democracy measures that would advance our civil rights and liberties. Political leaders acting against the will of the majority has become

commonplace in Florida, but we know that most Floridians believe in the basic principles of our democracy—the freedoms enunciated in the Constitution. Fighting for the soul of our democracy in the states, especially in Florida, is now more critical than ever. This includes moving Floridians to take even more action on the local level and in our communities to combat these blatantly unconstitutional attacks on our democracy from Tallahassee politicians.

At the ACLU of Florida, we know we are on the right side of this struggle. We will continue to fight for progress and a Florida for all. More than ever, we need your support and activism.

# ACLU

Florida

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