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WE WILL NOT BE SILENT:

2020 LEGISLATIVE SESSION REPORT

ACLU
Florida

FIGHTING FOR OUR RIGHTS DURING THE 2020 LEGISLATIVE SESSION

None of us could have predicted a few weeks ago that we would be facing a global pandemic. During this unprecedented time, we are doing everything in our power to ensure that our civil liberties, especially for the most vulnerable among us, are not forgotten. Although there are surely some who wish that the pandemic would end the scrutiny of their records, or result in lowered levels of transparency and accountability, we will not be silent.

Nor were we silent during the 2020 Florida Legislative Session. Up until the very last minute of the session, the ACLU of Florida fought to defeat a relentless onslaught of devastating attacks on Floridians' rights.

During this year's legislative session, a small band of Florida legislators used their privilege and power to devise prejudicial and dangerous bills that seek to shut people out of our democracy. Taking their cue from Governor Ron DeSantis, they blatantly ignored the voices and will of Floridians and implemented attacks on our right to participate directly in our democracy through the citizen initiative process. They undermined Florida workers' privacy and sought to make the state a more hostile place for immigrants by enacting a shamefully defective "e-verify" program. They maintained the mass incarceration crisis we have in Florida that warehouses approximately 150,000 people in prisons and jails and wastes \$2.7 billion taxpayer dollars on a system that makes our communities less safe.

Florida officials work for the people, but it's clear that many of them have no interest in what the people have to say and even less interest in protecting the people's rights. At the ACLU of Florida, we know what's at stake for civil rights and civil liberties in Florida. We know that the very values we share as Americans are what is at stake, and we refuse

to be deterred by a few legislators who have made it their business to undermine our rights.

In these challenging times, our work continues.

As each of us wrestles with our anxieties and fears about COVID-19, we are reminded of how closely connected we are to one another through our immediate communities and across the globe. We are also reminded how important it is to continue fighting — in the courts, in the legislature, and in communities — to advance all of our rights and freedoms. Because of supporters like you, we are built for moments like this, and we will continue to be propelled forward by the principles that have guided us for the last 100 years.

We will not forget, and we will not be silent. The 2020 Legislative Session may be over, but our work continues. Together, we can face any crisis because we are committed to achieving a more just society that leaves no one behind.



60 days in the Legislative Session



300 bills were monitored by the ACLU of Florida during the 2019 Legislative Session



350 supporters mobilized to the capital for our second criminal justice reform Lobby Day



2,397 emails sent to legislators and state officials



12 supporter trainings conducted

FIGHTING TO LET FLORIDA VOTE UNTIL THE VERY LAST MINUTE OF THE 2020 LEGISLATIVE SESSION

Our democracy was again under serious attack through a series of bills aimed at undermining our most fundamental right - the right to make our voices heard at the ballot box. The ACLU of Florida fought those attacks, losing one key battle but winning others, including a victory achieved in the middle of the night on the very last day of the legislative session.

After 65 percent of Florida voters approved Amendment 4 in November 2018 – returning the right to vote to as many as 1.4 million Floridians – powerful members of the Legislature decided they no longer wanted everyday Floridians to have the ability to fix



The legislature passed harmful restrictions on the citizen initiative process that seeks to silence Floridians voices. Under this policy:

- The cost of a citizen initiative increases by 30 percent or more, to more than \$10 million for each initiative - that's just to qualify so that Floridians could even consider an issue.
- The requisite number of signatures necessary for review by the Florida Supreme Court drastically increases from 10 percent to 25 percent of people who voted in the last general election; it also dictates that 25 percent of signatures collected must come from at least half of Florida's 27 congressional districts (up from one third).
- Petition verification costs increase and the bill inserts an arbitrary and inconsistent cost scheme which will be cost-prohibitive for grassroots movements.
- Petition signatures expire much faster, sometimes in only a few months, down from the current two years.

Senate Bill 1794, which undermines Florida's citizen initiative process, is the result of politicians retaliating against Floridians for recent popular citizen-led movements, like the restoration of voting rights for returning citizens.

egregious injustices in our state. They launched a direct attack on the citizen initiative process, which gives Floridians the right to participate directly in our democracy by amending the state's constitution. Floridians have used that right to establish a higher minimum wage, stronger water and land conservation, medical cannabis, fairer redistricting rules, and voting rights for 1.4 million Floridians.

Florida already has one of the strictest ballot measure requirements in the country, but the Legislature this year – for the second year in a row – passed a bill (SB 1794) that imposes even more difficult obstacles.

We are not giving up on this crucial issue. The ACLU mounted a media and call-in campaign with various partners across the state to urge Gov. Ron DeSantis to veto the bill and signify that a citizen's right to participate in direct democracy should never be compromised. While the bill attacking citizens' initiatives was a significant blow to our democracy, we were able to prevent other attacks on our voting



rights. Under current law, poll watchers must reside in the county where they are assigned by their political organizations. House Bill 491 would have changed that and allowed poll watchers to work anywhere in the state, opening the door to political partisans sending in outside agents to harass potential voters. This is a tactic previously used to intimidate minority voters.

HB 491 would have also made it a criminal offense for a person to be in possession of a vote-by-mail ballot belonging to anyone other than an immediate relative. The attempt to pass such a bill in the middle of the COVID-19 pandemic, when voters may well need friends and neighbors to mail their ballots or drop them off at a supervisor of elections office, was a cruel direct assault on the right to vote. The ACLU fought HB 491 until the very last night of the legislative session with advocates making calls and taking to social media to challenge Senators not to hear the final version of the bill. Senators heeded those calls by refusing to take up the bill, and the effort to make vote-by-mail more difficult failed.

The fight to let Florida vote continues!

Senate Bill 1794 seeks to deny the right Florida citizens have to participate directly in our democracy. Florida's democracy shouldn't be up for sale, and this bill gives access to amending the state constitution to the highest bidder.

PROTECTING IMMIGRANTS' RIGHTS IN FLORIDA

After the passage of Senate Bill 168 last year, which mandates local law enforcement divert their already limited resources to cooperate with U.S. Immigration and Customs Enforcement (ICE), we knew Governor DeSantis and his legislative allies would continue to push a hateful, extreme anti-immigrant agenda. The ACLU of Florida and allied partners anticipated that there would be attacks on Florida's immigrant communities during the 2020 legislative session, and that is exactly what we saw.

In a speech last fall, Gov. DeSantis made his anti-immigrant mandate clear by voicing his commitment to requiring all Florida businesses (public and private) to use the Employment Eligibility Verification system, also known as E-Verify, a permission slip from the government to work, for all employees or face consequences for failure to comply.

In practice, E-Verify has proven to be deficient and erroneous and has resulted in thousands of authorized workers being denied the ability to work by mistake. Worse yet, there is no meaningful way to fix errors in the system. Errors such as typos, name changes due to marriage, and even simply placing additional spaces after someone's name have denied people their legal right to work and provide for their families. It unfairly places the burden on authorized workers to prove that the E-Verify

“Every person in our state, regardless of their immigration status, should be able to live and work in Florida without fear of violence, harassment and discrimination.”





system was inaccurate and that they are, in fact, eligible to work. It also opens the doors to discriminatory practice by employers that would harm immigrant communities. To avoid conflict with federal authorities or any hassle of being challenged on an inaccuracy, employers often opt to not interview and refuse to hire applicants based on their foreign-sounding names or the color of their skin.

Despite the widespread concerns plaguing this error-prone system, some legislators were eager to use this tool to carry out DeSantis and Trump's anti-immigrant agenda. They did so by introducing two bills, House Bill 1265 and Senate Bill 664. At this point thousands of Floridians who care about justice for immigrants mobilized to prevent these E-Verify bills from becoming state law.

A network of ACLU supporters, businesses, faith leaders, advocacy groups, and local and state leaders collectively urged legislators to oppose these bills. These consistent efforts helped to persuade enough legislators to question the governor's agenda and introduce amendments to the Senate version of the bill that significantly weakened the scope of mandated E-Verify compliance.

Ultimately, SB 664 passed along party lines. Fortunately, due to the hard work of so many in opposition, it is a much more watered down version than the original DeSantis proposal in its final form. For example, it does not require private employers to use the E-Verify system.



E-Verify undermines our privacy. It harms Florida workers, businesses, and the economy."

Gov. DeSantis' claims that he has signed an E-Verify bill into law are true, on paper; the reality is Floridians from all walks of life were able to successfully fight against the provisions in this bill that would have caused the most harm to immigrant communities.

We are grateful to all of your efforts to help ward off this additional attack on immigrants' rights in Florida.

THE LEGISLATURE'S INACTION ON REHABILITATION IN PRISON IS A DISGRACE

Last year, the legislature passed the most forward-thinking criminal justice reform measure Florida has seen in nearly four decades. That was a positive step, though it did not go nearly far enough to repair our badly broken criminal legal system. This year, Floridians were hopeful that the legislature would build on that success to address other parts of the system. Instead, a handful of lawmakers actively sought to block any criminal justice reforms from moving in the legislature. They prevented common sense reforms from being heard in committees and ensured that no meaningful criminal justice reforms would pass this session. They decided to continue with the status quo, declining to reduce the prison population, improve the lives of Florida's nearly 100,000 incarcerated people, and continuing to waste \$2.7 billion taxpayer dollars.

Through the Florida Campaign for Criminal Justice Reform coalition, the ACLU of Florida, along with over a dozen non-partisan advocacy, legal, faith-based, and civil rights organizations campaigned for reforms to increase rehabilitation credits. Incarcerated people can earn rehabilitation credits for engaging in educational and vocational training, good behavior and other self-improvement activities. Current law strictly limits the number of rehabilitation credits that may be earned and applied toward one's sentence, regardless of the individual's conviction or their investment in self-improvement while incarcerated. This keeps people in prisons for much longer than needed and disincentivizes rehabilitation.

The current cap on rehabilitation credits

was adopted during the height of an era that imposed excessive and harsh sentencing in the 1990's and has not changed. Even then, Florida went further than other states, most of which only applied the rule to violent offenses. Unfortunately, the policies of the 90s, is not a relic of the past in Florida - although it should be. The reality is the majority of those nearly 100,000 people incarcerated in Florida's prisons do not pose a threat to society, but the more time they sit in prison with no hope or incentive to rehabilitate, the more likely they are to repeat their crimes when they do get out, further damaging our communities and continuing the revolving door of incarceration.



Together with more than 350 returning citizens and advocates, we marched on the Capitol in February to ask that lawmakers do the right thing and improve the lives of incarcerated Floridians, but certain lawmakers actively thwarted our efforts. We also launched a digital campaign, geared towards supporters of criminal justice reform across the state, to



persuade their legislators to support these important reforms. This campaign generated a massive amount of engagement, reaching more than 1 million people on Facebook and Instagram. Additionally, the ACLU worked with community members to create editorials and videos to communicate the importance of increasing rehabilitation in prison. Our team even journeyed to the DeSoto Correctional Institution in Venice, Fla., to meet with and talk to men who are currently incarcerated about the need for more educational programs in prison.

Certain legislators also thwarted bills that would have allowed for judicial discretion for mandatory minimum sentencing for certain drug trafficking offenses, retroactive sentencing reform, ending the suspension of driver's licenses for failure to pay court fines and fees, prohibiting solitary confinement for youth, making it easier for people who are wrongfully incarcerated to receive compensation, ending the arrest of children 12-years-old and younger, and more. They refused to pass all these much-needed reforms. While several of these bills advanced in the Senate chamber, the chair of the House Criminal Justice Subcommittee, Rep. Jamie Grant, refused to hear these criminal justice bills in the House.

We will keep fighting to end over-incarceration in Florida, and to improve the lives of incarcerated people and their families to ensure that they have the greatest opportunity to rehabilitate toward becoming productive and contributing members of society and live with dignity.

If Florida invested in rehabilitation in prison, we could:

- Save more than \$870 million in taxpayer dollars in just five years
- Reduce our enormous prison population by 9,000 immediately
- Encourage currently incarcerated people to self-improve by participating in educational and vocational training
- Increase public safety
- Reunite families

STUDENT AND YOUTH RIGHTS UNDER ATTACK FROM THE FLORIDA LEGISLATURE

This year, we saw unprecedented attacks on student and youth rights during this year's legislative session including attacks on reproductive freedom, LGBTQ+ youth, religious liberty in schools, and support for school voucher programs which disproportionately discriminate against students of color and LGBTQ+ students.

Roe v. Wade is under attack in Florida

No child should be forced to have a child. There is no greater government intrusion. Yet, in 2020, the Florida Legislature passed a parental consent bill that will strip young people of their right to end an unintended pregnancy.

Under this innocuously titled “parental consent” bill, young people must obtain notarized consent from their parents or guardian in order to receive abortion care, or go to court and convince a judge to grant them a judicial waiver.

Plainly, this bill would allow abusive, unsupportive, and neglectful parents to force minors to have children against their will. This bill is about creating a system where minors will be forced to have children against their will, and moving the state one step closer to repealing access to abortion care in Florida.

We know this is the case because Florida voters have already decided on this issue. Florida Statutes already strictly require that physicians notify parents of their minor's intent to end a pregnancy prior to any abortion care services being provided. These laws have



been in place for the past 15 years and there is absolutely no evidence that physicians are not following current laws, that parents are not being notified, or that minors are not already involving their parents.

The ACLU of Florida, along with our reproductive health partners, worked tirelessly to defend abortion access in Florida and defeat this unconstitutional bill. We mobilized supporters in collaboration with Florida Planned Parenthood to head to the capital to oppose the bill; testified in committees about the harm this bill would have on young people in Florida; and mobilized ACLU supporters to send hundreds of letters to their legislators opposing this bill.

It's a disgrace that our legislature spent its time stripping young people of their constitutionally protected right to end an unintended pregnancy. Floridians have a right to access safe and legal abortion, including young people.

Anti-LGBTQ+ laws have no place in Florida

This year, four anti-LGBTQ+ bills were filed by legislators, two of which directly attacked LGBTQ+ youth and students.

LGBTQ+ youth face discrimination in their communities, schools, and even their homes. They often face family rejection or instability and homelessness. At school, they are disproportionately bullied and find fewer allies in teachers and administrators. That's why one bill, SB 1634, misleadingly entitled "Parental Bill of Rights," was especially dangerous for LGBTQ+ youth. So-called "parental rights" bills are dangerous because they give parents such absolute control over their children's lives that, in some instances, the minors' own constitutional rights are threatened and their health and well-being can be endangered.

If this bill had passed in Florida, it would have given parents veto power over school lessons they disagreed with, including sex education, science and climate related education, health instruction, women's inclusive curriculum, alcohol and drug abuse treatment, and other areas of instruction. It also would have affected a young person's ability to obtain certain types of reproductive health care services, health examinations, wellness exams, and mental health counseling. This "parental rights bill" would have also forced teachers and counselors to betray a student's trust and confidence and share the student's sexual orientation and gender identity with parents against their will.

We worked with partners from around the state to defeat this bill and fortunately, this bill died in committee and did not pass in Florida.

Attacks on transgender youth were also at an all-time high throughout the country, with several legislatures, including in Florida, considering bills that would criminalize



transgender youth medical care. One bill, HB 1365, would have criminalized doctors – with a penalty of up to 15 years in prison – for providing life-saving care to transgender youth.

Politicians shouldn't decide what care is in the best interest of a patient. Patients, parents and medical professionals should decide what medical care is in the best interest of any particular young person. Thankfully, this bill didn't pass in Florida, but we are on high alert for future bills that would fundamentally harm transgender youth.

Instead of ending arrests of youth under the age of 12, Florida has opened the doors for discrimination against students of color, LGBTQ+ youth, and non-Christian students by sanctioning more school vouchers

In Florida, there is no law barring children under a certain age from being arrested. Last September, Kaia Rolle, a 6-year-old girl, was arrested by an Orange County police officer. Despite pleading and begging with the officer and school officials, Kaia's hands were placed behind her back, she was put in zip tie handcuffs, taken to jail and booked. Her charge: causing a "disruption" at her school. This happens to students all across the state of Florida, with a disproportionate number of arrests happening to Black and brown students.

Black children are much more likely to be swept up into the “school-to-prison pipeline.” In our 2019 report, “Safe to Learn,” we found that Black children are more than twice as likely to be suspended or expelled from school than their peers. Kicking kids out of school doesn’t teach them how to behave; it deepens the disconnect between them and school, leading to more trouble.

This year, the Florida Legislature had the opportunity to end the horrific practice of arresting youth under the age of 12. Legislation was introduced that would have drastically curbed the alarming statistics of the number of Black youth who are arrested every year in school.

Instead of passing this important bill that would have a positive impact on our students, the legislature prioritized a bill that would divert more taxpayer dollars to private religious schools, which we know harms students, particularly students of color and LGBTQ+ youth.

The ACLU of Florida is committed to ending disparate treatment for students of color and LGBTQ+ students. Children should not be arrested for normal youth behavior. We must prioritize students’ health, safety, and wellbeing, and ending the arrests of young children is one important policy we will not stop fighting to achieve.

WE WILL CONTINUE THE FIGHT

During the 2020 Legislative Session, there were clear threats to civil rights and civil liberties that sought to take our state in the wrong direction. These threats would drastically undercut our civil liberties in Florida, and while a few legislators continue to try to push us backwards, we still have many reasons to be optimistic.

The 2020 Florida Legislative Session ended during a challenging time - as the United States was beginning to deal with the COVID-19 pandemic. The global pandemic has prompted unprecedented changes in our communities and daily lives. In the midst of all these changes and the uncertainty that plagues our thoughts, one thing is clear - we are connected. We’ve shown what we can do if we remain united in our mission to make life better for one another. This pandemic shows us that we can and should prioritize small acts of kindness, compassion, and gratitude. We can do more to ensure we can all live with dignity.

Some elected officials in Florida have used their power and privilege to undermine and eliminate our civil liberties. They have made it more difficult for Floridians to live with dignity. This cannot and will not stand on our watch.

The ACLU remains more committed than ever to the dream of equity and justice for all. The most vulnerable among us cannot be left in the margins and we must ensure that we can all live without fear of harassment and discrimination.

Thanks to supporters and activists like you, we feel more prepared to take on these fights. COVID-19 highlights how critical the ACLU’s work is to ensure our civil liberties remain intact, and the 2020 Legislative Session showed us that the fight is hardly over.

We will continue to push for measures that will make a positive difference in Floridians’ lives, and we won’t stop until that dream is realized.



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