

January 9, 2023

VIA EMAIL

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To the Members of the 152nd General Assembly,

For over 100 years, the ACLU has defended and expanded the rights and liberties of all Americans to advance justice and equity in our society. We write to you today to urge you to prioritize economic justice, education equity, immigrants' rights, reproductive freedom, and legal system reforms in this session.

### **Economic Justice**

Too often, renters in Delaware are faced with an eviction notice that threatens their homes, families, and well-being. Even more often, the people facing eviction are left to navigate that legal hurdle by themselves. **In Delaware, 86% of landlords have legal representation in court eviction proceedings, but only 2% of renters have representation.** Securing renters' right to representation in evictions would benefit both renters and landlords by facilitating negotiations and reducing the need for formal court hearings. Along with community and public health benefits, providing a right to representation promotes substantial cost savings in Delaware. For every dollar invested in a right to representation for low-income renters facing eviction in Delaware, experts estimate cost savings to Delaware of at least \$2.76.

- **Right to Representation.** The current eviction process puts renters at a substantial disadvantage. The Delaware General Assembly should level the playing field between landlords and renters by providing representation in eviction proceedings for renters who can't afford that kind of help. In turn, it could help more landlords receive the money they're owed by renters who have fallen behind in their financial commitment.

### **Education Equity**

After decades of inequitable funding, a lawsuit brought against the state of Delaware by the ACLU of Delaware and our community partners settled. In addition to Governor Carney pledging to guarantee significant funding for low-income students, English learners, and special education students, the settlement included the creation of an education ombudsperson office to advocate and resolve educational disputes. Despite these wins, there remains a need to codify the ombudsperson's office and ensure that future supports exist for students and families. Additionally, there have been long-standing inequities for Black and brown students due to school discipline for behaviors exhibited in both the school and beyond those walls. According to nationwide data collected by the ACLU in 2018 examining state arrest records of students, Delaware had the fifth-highest arrest rate of students with disabilities. These disparities illustrate the overlap between racial justice and disability rights that desperately needs to be addressed in Delaware schools. Our priorities to address these issues include the following:

- **Codify the Education Ombudsperson Office.** The recently implemented Delaware Ombudsperson Program can help lessen disparities by increasing family and community engagement in schools. Our elected officials must ensure that the Ombudsperson Program has the framework and funding to support parents and students to address disputes or complaints concerning disparate discipline, inequitable access to school programs, or otherwise different or unfair treatment of students.
- **End Double Jeopardy for Students.** When children are charged with a crime, the school is notified by the Attorney General's office. Children can then face disciplinary consequences by the school, up to expulsion, regardless if the offense had anything to do with the school or the student has not been found guilty of the alleged crime. State leaders must end the disparate and unjust practice of penalizing students, often with disastrous outcomes for the student's academic achievement.

### **Immigrants' Rights**

The fundamental constitutional protections of due process and equal protection embodied in our Constitution apply to every person, regardless of immigration status. However, one of the most vulnerable immigrant populations—undocumented children—is continuously left at risk.

- **Protect Undocumented Children.** All children, regardless of documentation status, deserve access to healthcare. There are approximately 5,000 undocumented children in Delaware. We need legislation that will work to develop and operate a medical coverage program for children in Delaware who are not otherwise covered, including children who are not documented. Eight states and the District of Columbia currently provide healthcare coverage for undocumented children. It's time for Delaware to take action. Our elected officials must understand and support the need for policies that provide medical coverage and other avenues for expanded protections for undocumented children.

### **Reproductive Freedom**

The U.S. Supreme Court's decision to overturn *Roe v. Wade*, the landmark case securing abortion access, puts at least 26 states at risk to ban or heavily restrict abortion access. It's more important than ever for Delaware to ensure that we remain a haven for access to care – for Delawareans and those forced to leave their state to receive the care they need.

- **Medicaid Funded Abortion.** The cost of abortion places financial hurdles in front of patient care – those who can afford to pay or have insurance that covers abortion can receive care, while those who can't afford the cost of care either can't receive it or are forced to find other avenues. Funding abortion care through Medicaid will help break down socioeconomic barriers, and funding doula services will ensure that patients are supported while making decisions about their reproductive health.

### **Smart Justice**

Delaware incarcerates people at a rate higher than the national average and higher than our neighboring states. Too many Delaware residents have been adversely affected by the justice system, a system that disproportionately impacts people of color. Black people make up just 23% of Delaware's population, but they are 60% of our prison population. Our priorities are to tackle the state's countless systemic policies and practices that disproportionately target and trap people of color through over-policing, charging decisions, the criminalization of poverty, and barriers to reentry.

- **Probation Reform.** The General Assembly should end the revolving door to incarceration by implementing post-release policies that promote success after incarceration, including eliminating probation for minor convictions, customizing probation terms to meet individual needs, ending incarcerations for rule violations, and limiting probation terms to one year.
- **Expand Access to Second Chances. Up to 400,000 people** in Delaware live with a record. These records remain public forever, unless they are expunged, and limit access to jobs, housing, education, credit, and the ability to fully participate in social and civic life. Delaware does provide pathways for record clearance, but in 2020, less than 1% of the 280,000+ people eligible for an expungement actually received one. The General Assembly should pass bills to ensure all records terminated in individuals' favor are eligible for clearance and eliminate fines and fees as a barrier to expungement to ensure the successful implementation of Delaware's automatic expungement process.

The ACLU of Delaware is committed to collaborating with you and your staff and providing community-based support to achieve these goals. Thank you for your time and consideration of these monumental issues.

Sincerely,



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Javonne Rich  
*Policy & Advocacy Director*



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Mike Brickner  
*Executive Director*