

2021 Legislative Wrap-Up

Where do civil liberties stand after the first half of the 151st General Assembly's legislative session? Here's an update on the bills we worked to move forward this year. You can see the status of our priority legislation any time at aclu-de.org/legislation.

ARTICLE BY: JAVONNE RICH,
POLICY AND ADVOCACY DIRECTOR



Education

In October 2020, the ACLU of Delaware and Community Legal Aid Society, Inc. reached a settlement with Governor John Carney in Delawareans for Educational Opportunity v. Carney. The agreement required

the General Assembly to pass legislation that would bring structural changes to the way Delaware funds education for low-income students, English learners, and students with disabilities — groups who are historically underfunded and left with an inadequate education.

As a result of our litigation, two bills were introduced in 2021 to address these requirements. We're thrilled to say that both bills sailed through the General Assembly and have been signed into law by Governor John Carney.

HB 86: K-3 Funding for Students with

Special Education Needs

Signed by Governor Carney!

House Bill 86 provides increased funding for kindergarten through third grade students identified as eligible for basic special education services and will increase the unit count funding for K-3 Basic Special Education students by the 2023-2024 school year.

SB 56: Codifying the Opportunity Fund for Low-Income and English Learner Students

Signed by Governor Carney!

Senate Bill 56 codifies

the Opportunity Fund: additional funding for public schools to support the needs of students that are low-income and English learner students. SB 56 meets a key requirement of last year's settlement. SB 56 requires that Opportunity Funds increase at least \$60 million annually by the 2024-25 school year and increase proportionately to student growth every subsequent year.



Smart Justice

Our Smart Justice

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and more!

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ARTICLE BY: MIKE BRICKNER,
EXECUTIVE DIRECTOR

Dear Friends
and Supporters,

Following the death of George Floyd, communities across the nation protested, calling on officials to take action for racial justice.

In Delaware, activists pointed to the Law Enforcement Officer’s Bill of Rights (LEOBOR) as a major impediment to community trust and public safety. Delaware’s LEOBOR is the most extreme because it mandates that all police misconduct incidents remain secret forever.

Letter from
the ED

Even worse, it also explicitly prevents community-led oversight of police.

Leaders in the Delaware General Assembly introduced Senate Bill 149, which would address LEOBOR and end the culture of secrecy and impunity that has undermined our public safety.

If you attended SB 149’s hearing in the Senate Judiciary Committee, then you heard the countless voices of Delawareans who testified overwhelmingly in favor of its passage. Those voices represented just how popular police reform is with the vast majority of people in the state.

According to a poll conducted by ACLU-DE in June 2021:

71 percent of Delawareans support creating community oversight boards that would investigate and advise on discipline for officers who engage in misconduct;

68 percent of Delawareans support making police officers’ disciplinary records available to the public.

Together, we can get these critical reforms passed in 2022. Join our Smart Justice campaign to end racial injustice and protect our communities.

Mike B.

For regular updates, events and more, visit our website: [ACLU-DE.org](https://aclu-de.org).

ACLU Delaware

Sign up for email alerts

Get our action updates

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Delaware: Police Accountability NOW

Delaware Voting

THE LATEST

Press Release: ACLU of Delaware Launches Ambassador Program for the Delaware Campaign for Smart Justice

2021 LEGISLATIVE WRAP-UP, CONT. FROM FRONT PAGE

efforts this year focused on increasing police accountability and transparency through LEOBOR, use of force, and body-worn camera reforms, and expanding access to second chances through Clean Slate legislation.

When this year’s legislative session closed on June 30th, five of our priority bills had passed the General Assembly, including both Clean Slate bills, which will give a true second chance to 290,000 people living with Delaware records.

SB 147: Clearly Defining Use of Force Justification

Signed by Governor Carney!

Senate Bill 147 creates a requirement that when using force, both non-lethal and lethal, an officer must “reasonably believe” that they are in danger in order to justify their use of force.

SB 148: Giving AG Power to Investigate Non-Lethal Use of Force

Passed! Ready for Governor Action

Senate Bill 148

expands the Attorney General’s ability to investigate non-lethal use of force incidents and requires that race data is tracked and reported in use of force incidents.

SB 149: Amending the Law Enforcement Officers’ Bill of Rights

Senate Bill 149 removes the confidentiality clause from the Law Enforcement Officers’ Bill of Rights (LEOBOR) and makes police disciplinary records public. This bill also enables the creation of community oversight boards at a state, county, or municipal level with the power to hear and decide police disciplinary matters, gather data about misconduct, provide reports of trends in discipline, make recommendations regarding policy/training, and issue subpoenas.

HB 195: Regulating Governance of Body-worn Cameras

Signed by Governor Carney!

House Bill 195 requires certain police officers and other employees

of the Department of Corrections to use body-worn cameras to record interactions with members of the public. This bill would also require the Council on Police Training to create regulations for body-worn camera use to ensure consistent use in 2022.

SB 111: Automating Expungement Through the Clean Slate Act

Passed! Ready for Governor Action

The Clean Slate Act creates greater equity, consistency, and cost-effectiveness through a streamlined, automatic expungement process that applies to all records eligible for mandatory expungement.

SB 112: Expanding Eligibility for Mandatory Expungement

Passed! Ready for Governor Action

SB 112 will expand eligibility for mandatory expungement of adult and juvenile records, so that more

people will have access to automatic expungement through SB 111.

HB 37: Public Health Emergency Credit

HB 37 would create public health emergency credits that will result in the orderly release of people whose sentences will be expiring soon. Unfortunately, HB 37 stalled in the House Appropriations Committee and is expected to not pass this session.



Economic/Housing Justice

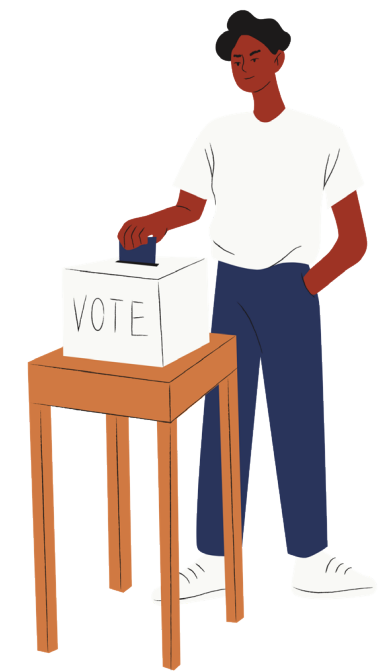
Too often, Delawareans are faced with situations of eviction that threaten their homes, their families, and their well-being. Even more often, people facing eviction are left to navigate that legal hurdle by themselves, without official counsel or legal assistance in a system that’s designed to protect landlords.

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That’s why we made the right to counsel for eviction defense a priority this year — because we need to level the playing field and fill the representation gap between the 86% of landlords who have representation from attorneys or agents in court and only 2% of tenants who have representation.

SB 101: Giving Delaware Tenants the Right to Counsel for Eviction Defense

SB 101 would implement a statewide right to legal counsel for eviction defense for covered tenants.



Voting Rights

This year we formed Delaware’s first statewide coalition of voting rights organizations and advocates. Under the umbrella of the

Delaware Voting Rights Coalition, we worked to expand access to voting for all eligible Delawareans.

Two of our priority voting rights bills are stalled until next year, but our coalition stands ready to fight to ensure that these bills pass in 2022.

HB 25: Same Day Voter Registration

HS 1 for HB 25 enables eligible persons to register to vote and cast a ballot at the same time through Election Day.

HB 75: Constitutional Amendment to Allow No-Excuse Absentee Voting

House Bill 75 aims to permanently guarantee the right to no-excuse absentee voting by amending the Delaware State Constitution and providing the General Assembly with power to regulate the circumstances, rules, and procedures for absentee voting.

SB 5: Automatic Voter Registration

Signed by Governor Carney!

SB 5 creates an automatic voter registration system at the Delaware Division of Motor Vehicles and allows the Department of Elections to implement automatic voter registration at other state agencies.

Clean Slate Passed — What’s Next?

Delaware’s Clean Slate bills are just one step away from becoming Delaware law. Once Governor Carney signs them, over 290,000 people who have records in Delaware will have a true second chance.

In Delaware, up to 400,000 people are saddled with records that block their access to jobs, housing, education, starting a business, or participating fully in social and civic community life. SB 111, the automatic expungement bill, and SB 112, the bill that expands access to mandatory expungement, are the Clean Slate bills we’ve been working hard on since March, and they both passed the General Assembly in June. Combined, these bills will help over 290,000 people who have records in Delaware — and they just need to get past one last step: Governor Carney’s signature.

Clean Slate legislation, like the bills passed here in Delaware, empowers states to automatically seal or expunge qualifying records for people who remain crime-free for a set period of time. This helps more people access a true second chance by streamlining the expungement process, which has historically been a costly, time-intensive barrier for the vast majority of eligible people.

SB 111 and SB 112 are vital to Delaware’s economic recovery, because they offer Delaware an opportunity to rebuild our

local economies by allowing the hundreds of thousands of people living with records in our state to fully participate in our economy. On average, the wages of people who receive expungements increase by more than 20 percent just one year after a record has been expunged.

Delawareans of all different races, genders, socio-economic statuses, and zip codes have had some kind of contact with the legal system that left them burdened with a record. Even if you’ve never been involved in the legal system yourself, with nearly half of Delaware’s population having some kind of record, chances are that someone you care about has.

Once Governor Carney signs SB 111 and SB 112 into law, Delaware will be on its way to real second chances. We’ll be there each step of the way to ensure that the bills are implemented effectively and with community input — and we’ll help make sure that the news about Clean Slate reaches as many people as it can, so the 290,000+ people living with Delaware records know how to get the second chance they’re entitled to.

To learn more and stay up-to-date on Clean Slate, visit CleanSlateDE.org.



Litigation Sneak Peek: Department of Correction & Solitary Confinement

DOC’s solitary confinement practices continue to be problematic, so we’re joining a case to help correct this issue.

Angelo Clark, a Delawarean who was formerly incarcerated at James T. Vaughn Correctional Center, lives with a severe mental illness. Despite knowing of his condition, employees at the Department of Correction (DOC) placed him in solitary confinement for seven months, causing serious and irreversible harm.

Mr. Clark sued DOC, alleging that this solitary confinement violated the Eighth Amendment’s prohibition on cruel and unusual punishment. Unfortunately, the trial court granted the Department’s motion to dismiss Mr. Clark’s claim, reasoning that those with mental illness do not have

a clearly established right under the Eighth Amendment to be kept out of solitary confinement, and therefore the DOC employees involved have qualified immunity.

We disagree.

We will be assisted by our co-counsel, Michael Broadbent and others at Cozen O’Connor, in our efforts to overturn the trial court ruling in the federal Court of Appeals for the Third Circuit.

We will be filing our brief on September 20, and anticipate the Third Circuit holding an oral argument in November or December. Keep an eye out for updates at ACLU-DE.org.



Ways to give to the ACLU-DE

As a lot of us start to consider our year end giving plans, I wanted to share with you why many of our supporters are opting for non-cash gifts — high impact at a low cost.

ARTICLE BY: MELISSA BRYSON,
DEVELOPMENT DIRECTOR

While outright gifts are an important way to support our work, keep reading to find out other ways to donate. Join our most tax-savvy supporters, saving on taxes while defending our constitutional rights with the following giving options:

Donate Stocks

Most ACLU-DE supporters who donate appreciated stocks are thrilled to save on two types of taxes while protecting our individual freedoms. Learn more about giving a gift of stock at aclu-de.org/donate.

Give from Your IRA

Are you over the age of 70 1/2? Tax-free IRA gifts are a powerful way to help the ACLU

of Delaware — and for many supporters, they offer a huge financial benefit! IRA gifts reduce your future tax burden and can fulfill your Required Minimum Distribution for 2021. Learn more about giving through your IRA at aclu-de.org/donate.

Don't wait: it's never too early to plan your year-end giving to make a lasting impact into 2022.

When you are ready, we will be here to help you shape a charitable gift plan that suits your needs and allows you to keep fueling our important work. Please contact Melissa Bryson, mbryson@aclu-de.org or call (302) 654-5326 to learn about the many ways you can support the ACLU of Delaware.

Thank you, as always, for supporting the work of the ACLU!

The ACLU depends on you.

Our members and supporters provide the influence that makes us powerful, and the financial support that makes it possible to defend our constitutional rights and individual freedoms.

The ACLU does not accept government funding, and we never charge our clients for legal representation. Without your support, none of our vital work would be possible.

The ACLU of Delaware is comprised of two organizations, the American Civil Liberties Union of Delaware and the ACLU Foundation of Delaware. Contributions to the ACLU Foundation of Delaware are tax deductible for charitable purposes, while ACLU of Delaware membership dues are not.

We're here to help you shape a charitable gift plan that suits your needs and allows you to fuel our important work. Please contact Melissa Bryson, mbryson@aclu-de.org or call (302) 654-5326 if you'd like to learn more about the ways you can support the ACLU of Delaware.

Thank you for supporting the work of the ACLU!

GIVING OPTIONS

Support the ACLU of Delaware Foundation
Become a Member
Make a Tribute Gift
Make a Gift of Stock
Give from Your IRA
Attend the 2021 Kandler Awards Celebration!

Check out the new donation page, which lists all of your giving options, on our website: aclu-de.org/donate.



— celebrating our 60th anniversary —
KANDLER
awards celebration

HOSTED BY: Mike Brickner & Senator Sarah McBride

WE INVITE YOU TO JOIN US

Wednesday, October 20 at 7 p.m.

Virtual Event on Zoom with In-Person Celebration Opportunities

TO HELP HONOR OUR 2021 KANDLER RECIPIENTS:



Carrie Casey

Manager of New Castle County's Community Development and Housing Department



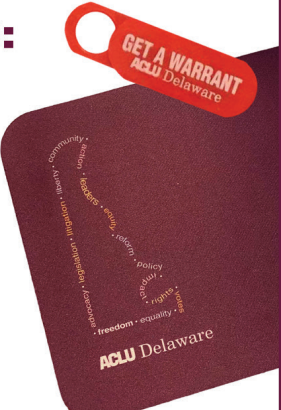
Yasser Payne

Associate Professor at the University of Delaware

EVERY KANDLER TICKET* INCLUDES:

Voucher for Food from Local Restaurant
ACLU-DE Vintage Tote
Delaware Civil Liberties Mouse Pad
Get A Warrant Webcam Cover
And Other Goodies!

*All tickets included with sponsorships will also receive these swag bundles.



OUR MUSICAL GUESTS:

This year's entertainment for the Kandler celebration will be provided by

Jea Street, Jr.
&

Nadjah Nicole



TICKETS, SPONSORSHIPS, AND MORE INFO: [BIDPAL.NET/KANDLER2021](https://bidpal.net/kandler2021)



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We invite you to exercise
your free speech rights by
sending suggestions, letters,
questions, or comments.

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100 West 10th St., Ste. 706
Wilmington, DE 19801



**JOIN US FOR A VIRTUAL EVENT:
THE HISTORY OF FREE SPEECH**

with Mike Brickner, Ron Collins, Bob Corn-Revere
and special guest Mary Beth Tinker

**THURSDAY SEPTEMBER 23 | 6PM
VIRTUAL VIA ZOOM**

Join us for an evening of conversation on free speech.
Learn more and RSVP at ACLU-DE.org.