

AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT 2008 LEGISLATIVE AGENDA

Note: It is still too far early to have a complete picture of all the issues that may arise in the 2008 session. Below are the issues at this point-in-time that we believe will be the subject of debate in the upcoming session and are of interest to ACLU-CT. This list is organized by category, and is not prioritized. **The updates are in bold and are as of 3/30/08**

Criminal Justice

A. The Response to the Cheshire Tragedy- There have been numerous hearings, task forces, proposals and discussions around criminal justice issues in the wake of the tragedy in Cheshire. There is talk about a special session in January to adopt legislation in this area. The proposals that have been put forward by legislators, State's Attorney and the Board of Pardon and Parole include but are not limited to:

1. A "Three Strikes" law- there are various proposals about such a law including one that mandates a sentence of life in prison without the possibility of parole (even California law allows the possibility of parole); a proposal that includes misdemeanors as "strikes" and some that allow no judicial discretion.
2. Making burglary a violent felony. Most of the proposals include some version of this proposal. Everyone convicted of a violent felony must serve 85% of their sentence to be eligible for parole.
3. Allowing the use of "deadly force" if someone is trying to enter your home or car in order. you believe, to commit a crime.
4. GPS tracking for all violent offenders out on parole.
5. Shortening the deadline for the filing of appeals in death penalty cases and limiting those appeals.
6. Building more prisons

****A report on the January special session on criminal justice is attached. We were able to kill the three strikes proposal and pass a number of new re-entry and diversion programs. A new persistent offender law and increased penalties for burglary were passed which we expected given the nature of the Cheshire tragedy.**

There was a bill voted on in the Judiciary Committee last week on a "real three strikes and you are out" bill HB 5915 An Act Concerning Persistent Dangerous Felony Offenders. It died 16-25 on a party line vote except Rep. Berger-D (Waterbury), Rep. Fritz-D (Cheshire) and Rep. Hamm-D (Durham) voted yes.

The Governor said in a press conference yesterday that the bill will be offered as an amendment on the floor of both houses. We continue to lobby the legislation.

B. Alternatives to Incarceration for People with Psychiatric Disabilities. A study recently found that about 35-40% of CT's prisoners suffer from a serious mental illness. ACLU-CT has been working with other groups on a possible lawsuit around the lack of alternative to incarceration opportunities for people with such disabilities. We are hoping to increase those opportunities this session. **A new diversion program for people with psychiatric disabilities passed in the special session –see report attached.**

C. Civil Commitment- Because of an outcry by people in Southbury where a recently released sex offender went to live with his sister, there has been renewed discussions about civil

commitment legislation. We need to watch for such a proposal. **We have not seen a civil commitment proposal as of yet.**

D. Investigative Subpoena - This has been an annual issue before the CT General Assembly and we have been able to defeat it every year. But we think it may have more support because legislators seem to like and trust the new State's Attorney. **Rep. Spallone (D- Essex) worked over the interim to try and craft a compromise proposal around Grand Jury. Though he promised to include ACLU- CT, the negotiations only included the State's Attorneys and Public Defenders Offices. He provided us with a draft right before the public hearing on the legislation. Andrew Schneider, Executive Director of ACLU-CT, worked with criminal defense attorneys to craft a response. We provided Rep. Spallone with an outline of our objections which included:**

- **There was new unfettered prosecutorial discretion such as prosecutors no longer have to persuade a panel of judges that they've exhausted conventional means of investigation in order to convene a grand jury.**
- **The standard for convening a grand jury has been further lowered from the level of it "will lead to the discovery of probable cause" to it "may lead to the discovery of probable cause."**
- **Individuals who are not targets of an investigation and who are brought before a grand jury are not given a meaningful notice of their right to an attorney.**
- **It added an additional catch-all reason for keeping grand jury reports private: for "the continued effectiveness of future investigatory grand juries"**

In the end, Rep. Spallone allowed the bill to be held and it died in Judiciary without a vote. We think Rep. Spallone will try and convene a larger group including ACLU-CT to continue these discussions.

E. Death Penalty - It is doubtful that we will have the votes in either chamber to abolish the death penalty this session. It is not clear if we will be able to abolish it in the near future or even pass substantial reforms because of the Cheshire defendants.

Rep. Dyson offered an amendment in the special session to abolish the death penalty. This was really not a good time or place for this effort. The amendment died on vote of 48-91.

F. Habeas Corpus- Unfortunately The Chief State's Attorney, Kevin Kane, raised the issues of Habeas "reform" at the Judiciary committee hearing on Cheshire. A few legislators seemed very interested. It seemed that Kevin Kane had not planned to do this year but seemed encouraged by the legislators' response and indicated he would be willing to address this issue this session. Kevin Kane indicated he would be glad to sit down with all the parties and come up with an agreed to proposal but I am not sure this is even possible.

There was a bill raised in Judiciary, SB 320 which would have severely limited the time to file an appeal and number of appeals available to people sentenced to death. Andrew Schneider testified against the legislation and it died without being called for a vote in the Judiciary committee.

Reproductive Freedom

A. Parental Consent for Abortions - We expect that there will be an attempt to pass legislation around parental notification for abortions again this session. We expect it to be raised in the

Children's Committee where our opponents seem to have the votes. But in the end, it is not likely the legislature will want an abortion debate in an election year.

A bill requiring counseling of 16 and 17 year olds before they can have an abortion HB 5915 An Act Concerning The Required Age For Counseling passed the Children's Committee with only Sen. Harp (D-New Haven) voting no. But the Coalition for Choice working with a strong group of legislators convinced the Public Health Committee to allow it to die without a vote. Rep. Jack Thompson (D-Manchester) is working very hard with the Catholic Conference to get the bill called as an amendment. Such counseling is required for young women under 16 but it is the practice to provide such counseling to everyone under 18 but there is a concern the bill will be a vehicle for a parental notification amendment.

B. Healthy Teens- The Coalition for Choice has worked on legislation to mandate sex education for students in grades K-12 without a lot of luck. The Coalition is supporting legislation this year providing grants to towns that offer the Dept. of Education's sex education curriculum in grades K-12. The State now provides such grants to towns that eliminate junk food from their schools.

The Appropriations budget that was adopted last week includes \$500,000 for such grants. The bill was on the Appropriations Committee agenda on last Friday but wasn't called for a vote because Rep. Thompson was going to offer his counseling amendment (see above). The contents of the bill may be included in a budget implementer bill.

Free Speech

Campaign Finance –We don't expect any major proposals on this issue unless we win the declaratory ruling around the solicitation and limitation of contributions by lobbyists and state contractors before or while they are in session. **No legislation has been raised that would address the constitutional concerns ACLU-CT has raised in the lawsuit around the Campaign Finance law.**

LGBT Rights

A. Marriage- If the Supreme Court issues a ruling in the marriage case before the session begins, win or lose- this will be an issue in this session. It is less clear if it will be an issue if there is no ruling before the legislature adjourns.

We are, of course, still waiting for a ruling in the case. Judiciary raised a bill HB 5925 An Act Concerning Civil Unions, that detailed some of the problems associated with civil unions. There was a public hearing and many couples came forward to talk about the obstacles they faced to equal recognition. The bill really was a vehicle for this discussion and was allowed to die in the Judiciary Committee without a vote.

B. Transgender – Last year we were able to successfully pass this bill in 5 different committees and in the Senate with very few no votes. But after a 5 hour debate in the House, the bill was passed retained and never brought up for a vote in the House. The Anti-Discrimination Coalition wants to try and pass it again this session.

This bill, HB 5723 An Act Concerning Discrimination, passed the Judiciary Committee with only 6 no votes. The no votes were Sen. Caligiuri (R-Waterbury), Rep. O'Neill (R-Southbury), Rep. Hamzy (R-Terryville), Rep. Rowe (R-Milford) Rep. Geigler (R-Danbury) and Rep. Adinolfi (R-Cheshire). We were especially concerned that an amendment would be offered to allow discrimination against transgendered teachers. In the end, the bill was

voted on with no amendments. The bill is on its way to the House. We are working to try to pass it this year but the fact it is a short session; the concern that the legislators' votes on the bill or amendments may be used against them in an election year; and, the concern about a filibuster that would take up a lot of time on the floor, make it an uphill battle.

Privacy

HIV Testing- With the CDC recommendation that HIV testing become routine for all persons ages of 13 to 64, the AIDS organizations are working with the Department of Public Health around making some changes to Connecticut's informed consent laws. We will need to watch this proposal.

Because of opposition from the hospitals (they want to either leave the testing requirements where they are or make HIV testing simply routine) and some members of the committee, Public Health refused to even raise the bill.

Traffic Cameras - We helped to kill legislation that allowed for cameras at traffic lights that would automatically give a ticket to the owner of a vehicle that ran a traffic light in the Judiciary Committee in the last two sessions. We expect the makers of these devices and their lobbyists will try again this session, especially given the latest accident on Avon Mountain.

The Governor, as part of her legislative package, introduced a bill requiring traffic cameras on I95 in Old Lyme. The issue was part of her opening day speech. The bill, SB41 An Act Creating An Automated Highway Speed Enforcement Pilot Program, was sent to the Public Safety Committee which has not been a good committee for us. The Governor's office lobbied the bill heavily and at least one of the committee's chairs was supportive. We worked hard lobbying the bill in conjunction with the Motor Transport Association. There was excellent debate from committee members on our side and the bill died on a vote of 9-13. It was a party line votes except Rep. Dargan (D-West Haven) and Rep. Bockus (D-Bristol) voted yes. We will have to watch for this proposal to come back as an amendment.

Fair Housing

Affordable Housing Appeals Act- We always expect to have to continue our battle to preserve our affordable housing appeals act. **We have not seen any amendments on the issue yet this session.**

Drug Policy

A. School Zones - The Drug Policy Alliance is hoping that the Sentencing Commission's report which is the result of a two year study will address the school zone issue. That report is supposed to offer recommendations in January of ways to streamline our sentencing scheme and make our sentences uniform and fair. DPA did a study in few years ago that showed that in most urban areas there is no place where enhanced penalties for the possession and/or sale of drugs in school zones doesn't apply because the whole city is a school zone (in New Haven, literally the only place they don't apply is the Yale Bowl), while in suburban communities the areas covered are fairly small. **A bill was raised in Judiciary on this issue but died in the Judiciary Committee without a vote. The bill, HB5723 An Act Concerning Racial And Ethnic Impact Statements On Legislation And Certain Offenses Committed Near Schools Or Child Day Care Centers, also contained the provision that a racial impact statements be attached to criminal justice bills. We are trying to get a legislator to offer that part of the bill as an**

amendment on the floor. Such a requirement could also been done as part of the Joint rules.

B. Compassionate Use of Marijuana- This bill passed both the House and Senate last year but despite an incredible advocacy effort, the Governor vetoed the bill. There is going to be an attempt to craft a compromise that the Governor will sign. If there is such a compromise, legislation will be introduced this session

We never were able to talk to the Governor about a compromise on this issue so didn't raise the bill.

Other Issues

A.Robo Calls-Andrew Schneider testified on two bills that attempt to ban political robo calls. He spoke in front of the General Law and Government Administration and Elections (GAE) Committee. The General Law Committee decided, after Andrew's testimony, not to vote for a favorable report on their bill but did vote to send the bill to the GAE committee. GAE did approve the General Law committee's bill which was being pushed extremely hard by the Senate Chair of General Law, Sen. Colapietro (D-Bristol). We will be lobbying it in the Senate. The trouble is their constituents hate these calls and they are afraid to vote against them.

B.-DNA Testing of Arrestees- This legislation was also part of the Governor's opening day address and being lobbied by her office. We actively lobbied against this proposal and Andrew testified against it in Judiciary. There were bills in both Public Safety and Judiciary. Public Safety held their bill and let it die without a vote when they realized they didn't have the votes. Before the Judiciary bill was brought up for a vote, both minority leaders, Sen. McKinney (R-Westport) and Rep. Cafero (R- Norwalk), approached the Governor's office asking her to remove arrestees from her bill. (Since the Governor can not directly introduce bills, all of her bills are introduced by the minority leaders. So their names were on the bills.) We arranged and attended meetings we set up for Andrew Schneider with both of the minority leaders and it was clear they were persuaded by our arguments as it related to arrestees. So before the Governor's DNA bill was voted on in Judiciary, the section covering arrestees was deleted.

C. Sex Offenders-The Governor proposed legislation that would have required convicted sex offenders' driver's licenses to note that they are sex offenders. It seemed the consensus as we lobbied this that this was a bad idea. It was never even raised for a public hearing.

There is also a bill, HB 5790 An Act Concerning The Internet And Protection Of Children, sponsored by the Speaker and MySpace which we are looking at for constitutional concerns.

D. Real ID- \$300,000 was in the budget that was approved by the Appropriations Committee last week for Real ID, we are working to get the funding removed.