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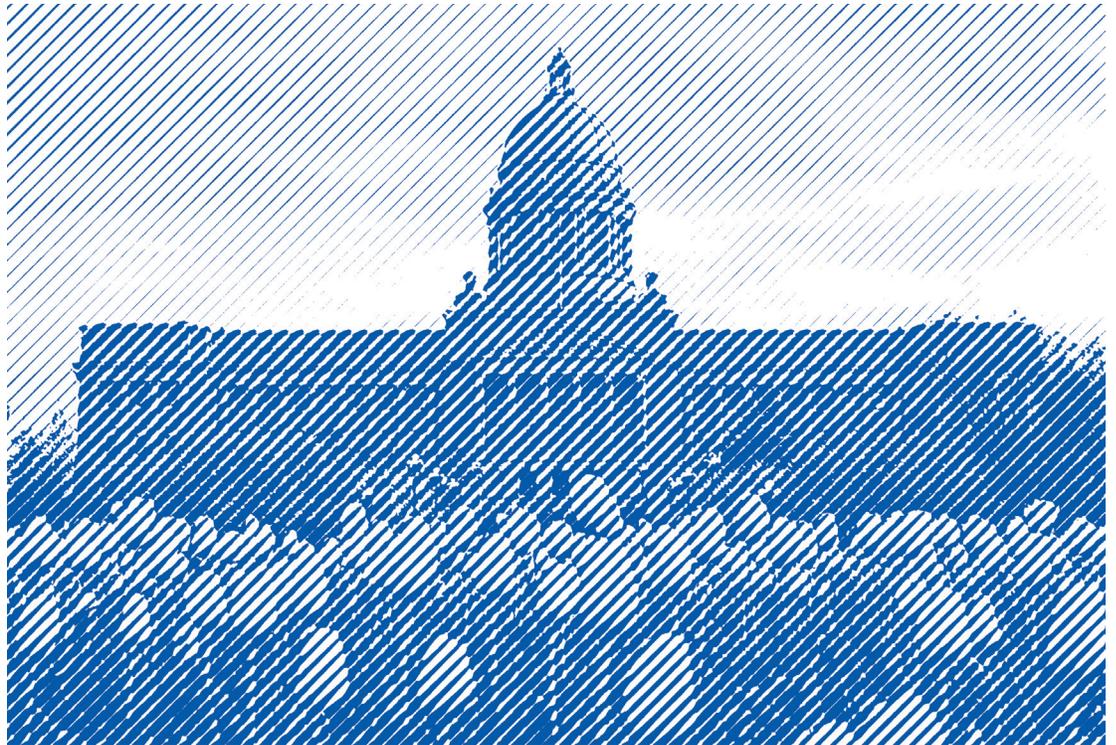
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THE TORCH

Fall 2017 Newsletter of the American Civil Liberties Union of Kentucky Foundation



THE 2018 GENERAL ASSEMBLY

By Kate Miller, ACLU-KY Advocacy Director

The 2018 legislative session is around the corner. The 2018 “long” session will kick off Tuesday, January 2nd and stretches all the way to April 13th. The even-numbered year’s sessions last for 60 days. This year’s session also serves as a precursor to the 2018 Election, when candidates will be on the ballot for all 100 Kentucky House seats and 19 Kentucky Senate seats.

ABORTION ACCESS

So what can we expect during the legislative session? We can expect more attacks on abortion access, but it’s not yet clear what these new restrictions will look like. In preparation, we’re researching a number of measures that have moved in other states requiring additional forms of parental consent, further restrictions

placed on providers and earlier procedural bans. One pre-filed bill by Representative Dan Johnson of Bullitt County is a full ban on abortion; the unconstitutional proposal is unlikely to move in the upcoming session.

IMMIGRANTS’ RIGHTS

In terms of other bad bills, we may see more of an interest in coming after Kentuckians who are undocumented or even those with temporary status. House Bill 501 from the 2017 legislative session was recently discussed in an interim judiciary committee meeting. The conversation in that meeting, coupled with several one-on-one legislative meetings, have given us cause for concern. HB 501 is billed as an attack on sanctuary cities,

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but goes much further, forcing local law enforcement to not only administer federal immigration law but prioritize it over other work like responding to calls for service and investigating crimes. It also prohibits colleges and universities from admitting students based on their immigration status and even punishes schools for their failure to comply. We're watching this dangerous measure very closely.

LGBT RIGHTS/RELIGIOUS FREEDOM

While we haven't heard of any renewed attacks on LGBT Kentuckians these remain a possibility. The General Assembly didn't pass any North Carolina-style bills during the 2017 session in large part because of the disastrous economic outcomes the state could face if we were to move in that direction. We remain vigilant especially for bills that attempt to falsely use religious liberty as a guise for discrimination. We do expect the General Assembly will act to further erode the separation of church and state as well as other First Amendment protections. One pre-filed measure would establish an annual day of prayer for all Kentucky students.

PRO-CIVIL LIBERTIES LEGISLATION

Our priority proactive legislative includes justice reform and protections for pregnant workers. As a member of the Kentucky Smart on Crime Coalition, our goals will largely center on the

recommendations set forth by the Justice Re-Investment Taskforce that we serve as a member of. These recommendations are aimed at reducing the unnecessary incarceration of Kentuckians with an emphasis on cost saving alternatives that yield better outcomes like community supervision and recovery services.

Our pregnant workers' bill provides modest accommodations for pregnant Kentuckians in the workplace, like keeping a water bottle at the register, or being able to take breaks more often, pregnant Kentuckians will be better equipped to have a healthy pregnancy. The 2017 bill was filed by Representative Jason Nemes of Jefferson County and Senator Alice Forgy Kerr of Fayette County and has the support of a variety of groups including the Kentucky Center on Economic Policy and the Catholic Conference of Kentucky.

These bills are just the tip of the iceberg, in order to stay informed make sure you are signed up to receive emails from the ACLU of Kentucky and follow us on Facebook and Twitter. You can get involved by contacting your legislator by phone (502-564-8100 – general number for the capitol or use the legislative message line at 1-800-372-7181) by email, letter, or in person – there are plenty of opportunities to get more involved. For more information please email Kate@aclu-ky.org.

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Lobby Days

REPRO RIGHTS RALLY
Thursday, January 4th

FAIRNESS RALLY AND LOBBY DAY
Wednesday, February 21st

IMMIGRANT AND REFUGEE DAY
Wednesday, March 7th

DAY OF EMPATHY
TBD

*Dates are subject to change. Please follow the ACLU of Kentucky on Facebook and Twitter for updates.

WEEKLY VISITS AT THE CAPITOL

The ACLU of Kentucky is working with coalition partners to bring constituents and directly impacted folks to the capitol on a weekly basis to meet with legislators during the 2018 session. If you have been personally impacted by laws or policies related to abortion access, your immigration status, criminal justice or experienced discrimination as a result of your sexual orientation or gender identity OR you are interested in meeting with your lawmakers in a small group or one-on-one please reach out to George Eklund at George@aclu-ky.org for more information.



LEGAL UPDATE

By Heather Gatnarek

The ACLU of Kentucky's Legal Program has had a busy year to date, as we work to protect civil liberties and civil rights at the state and federal level. Our summer was spent working with the national ACLU's Reproductive Freedom Project and the Louisville law firm of Lynch, Cox, Gilman & Goodman P.S.C. on behalf of the state's last remaining abortion clinic. Along with Planned Parenthood of Indiana and Kentucky, who intervened as plaintiffs in a lawsuit we filed in March, we challenged the state requirement that the clinic obtain a transfer agreement with a local hospital and a transport agreement with a local ambulance company. The case went to trial in federal court in September. The evidence at trial demonstrated that these agreements do nothing to protect women's health and safety, but rather act as an unduly burdensome obstacle to women's ability to access constitutionally-protected health care. Post-trial briefs from all parties are due at the end of November, and then we will await a ruling from the presiding judge.

Just weeks after we wrapped up that trial, we learned that our earlier challenge to the mandatory narrated ultrasound bill, an anti-abortion measure passed by the General Assembly in January, was successful. A federal judge in Louisville ruled that the law is a violation of doctors' First Amendment protections against compelled, ideological speech, and that it may actually cause psychological harm to patients. Although the defendants' counsel have already appealed this ruling, we are pleased that the first court to consider Kentucky's law agreed with us that it is in fact unconstitutional.

Reproductive freedom has not been our only focus. In August, we filed suit against Kentucky's Governor for his practice of permanently banning constituents from his social media pages. Over 600 people have been blocked from accessing the Governor's official Facebook or Twitter pages, pages the Governor regularly uses to announce official policy. These actions mean these constituents cannot engage in dialogue with either the Governor or the other Kentuckians who also use those platforms to speak, in violation of their First Amendment rights. The case is in its preliminary stages, and we look forward to continue fighting on behalf of Kentuckians who have been silenced on these online forums.

The office enjoyed two other legal wins in recent months. The first came in the ongoing Rowan County litigation regarding the county clerk's refusal to issue marriage licenses to same-sex couples in the wake of the Supreme Court's decision in *Obergefell v. Hodges*. In July, the federal judge presiding over the case issued an order granting attorneys' fees to Plaintiffs' counsel. More recently, in a case challenging a Kenton

County school resource officer's handcuffing of two young students, a federal judge ruled that such action violated the children's constitutional rights and was clearly an unreasonable seizure. As a result of the judge's ruling, a trial for damages will be held. The ACLU is working with the Children's Law Center and the national ACLU's Disability Rights Program on this important case.

Outside the courtroom, we continue to investigate and report on civil rights and civil liberties protections. We are undertaking an investigation into Bible Literacy courses being offered at Kentucky's public schools pursuant to HB 128, and will work to ensure that any courses offered comport with constitutional protections against governmental endorsement or sponsorship of religion. Additionally, in September we issued a report on private probation companies operating around the state. In it, we highlight the problematic, ad hoc way in which these companies are used, and we stress that should Kentucky courts continue to avail themselves of private probation companies to monitor people post-conviction, proper oversight and transparency in the system is absolutely necessary. This important report is available on the ACLU of Kentucky's website.

Finally, we bid farewell to our long-time Legal Director, William Sharp, who after almost two decades in public interest work joined a local law firm to try his hand at private law practice. Amy Cubbage, a former board member and current ACLU cooperating attorney, has stepped in as Interim Legal Director while a search is undertaken for Bill's replacement. We wish Bill all the best in his new chapter!

ACLU of Kentucky Board and Staff members at the Speed Art Museum in September.



2017 BOARD NOMINATIONS

The ACLU of Kentucky is seeking individuals interested in serving on the Board of Directors. The Nominations Committee seeks candidates who are dedicated to the ACLU mission and willing to dedicate their time, talents and resources to help the ACLU of Kentucky achieve its mission and priorities.

The ACLU of Kentucky seeks potential board members that reflect the diversity of our state. Priority areas include, but are not limited to: individuals with expertise in finance, budget management, and fundraising; individuals who are lesbian, gay, bisexual, queer, cisgender, or transgender; individuals from ethnic or racial minorities groups; individuals with disabilities; and other groups that represent the diversity of our state.

Among the Board responsibilities and requirements are: 1) monitor progress toward goals; 2) develop, review and approve policies and budgets; 3) ensure adequate resources; 4) enhance the ACLU's public image; 5) ensure compliance with legal, ethical, and financial standards; 6) monitor and evaluate programs and services; 7) support the Executive Director and provide a performance review; 8) attend

6 board meetings a year including the Annual Meeting; 9) participate on one board committee; 10) make a financial contribution according to one's ability; and 11) be a member of the ACLU.

The terms for board members are three years with the opportunity for a second term. Elections will be held at the Annual Meeting in April 2018.

Nominations should include the following information: 1) nominee name; 2) nominee email address and telephone number; 3) brief description of nominee's qualifications (profession, community involvement, ACLU involvement (if applicable)); 4) nominator's name, email address, and telephone number; 5) high-resolution digital headshot; and 6) a short bio and statement on why nominee wishes to serve on the ACLU of Kentucky Board of Directors.

Please note that a nomination does not ensure that a nominee will be selected as a candidate to run for election. Submit nominations by January 31, 2018, to Patti Minter, ACLU of KY, 315 Guthrie Street #300, Louisville, KY, 40202 or by email to phminter@gmail.com with "Board Nominee" in the subject line.



FIGHT BACK AGAINST ATTACKS ON OUR CIVIL LIBERTIES

It is an exciting time to be engaged with the work of the American Civil Liberties Union of Kentucky. We are more than 8,000 members strong – more than four times the size we were this time last year! We are proud of all that we've accomplished this year in the face of unprecedented civil liberties challenges on the state and national level. With the support of donors like you, we are primed to put our human capital to work in the courts, legislature, and public arena to advance our mission. Here are a few of the areas where your support has helped our work gain traction in Kentucky:

- Added a second full-time attorney to our Legal Program
- Won a federal lawsuit that struck down an unconstitutional, anti-abortion bill that forced doctors to narrate ultrasounds to their patients, even if they thought it could be harmful to the patient.
- Passage of criminal justice re-entry reforms through the efforts of our Kentucky Smart on Crime Coalition.
- Secured a grant from the ACLU's Campaign for Smart Justice to hire a full-time organizer to work with formerly incarcerated individuals to have their voices and concerns heard as we work toward additional justice reforms.

As we mark these accomplishments, we look forward to the new opportunities that are on the horizon and we recognize the challenges of growing an organization in an intentional and sustainable way. Your past support is proof of your dedication to our work; now we challenge you to think about what this work – our work – is worth to you.

If you believe in our work defending liberty and democracy, please support us in one or more of the following ways:

Make a donation or renew your membership using the enclosed envelope or online at <https://action.aclu.org/secure/support-aclu-kentucky>

Give a membership as a holiday gift, or honor/remember someone special with a gift in their name.

Already a member/donor? Become a sustainer and have an automatic monthly or quarterly donation charged to your credit card. Contact Africa at Africa@aclu-ky.org to learn more.

Follow us on Facebook and Twitter and invite your friends. You can find us at www.facebook.com/ACLUofKentucky and @ACLUofKY on Twitter.

Sign up to receive our action alert emails at www.aclu-ky.org on the right side of the homepage.

Attend our events, held throughout the year across the Commonwealth, and bring friends. Check out the calendar on our website to see what's happening in your area.

Make sure your voice is heard on the issues you care about! Sign a petition, meet with your legislators, write an op-ed, or attend a rally day at the capitol. Contact our Community Engagement Coordinator George at George@aclu-ky.org to get involved.

Co-host a house party and help your friends, family and colleagues learn more about how the ACLU-KY is protecting liberty. Contact Africa at Africa@aclu-ky.org for more information.

Share your story! Tell us why do you support the ACLU-KY? Look for the story sharing link on our homepage at www.aclu-ky.org.

After you are finished reading this newsletter, pass it on to a friend or family member. They just might read something that inspires them to join you among our ranks of members/supporters!



2017 REPRODUCTIVE FREEDOM PROJECT BENEFIT



In October reproductive freedom supporters converged on Genscape in Old Louisville for the annual benefit for the ACLU-KY's Reproductive Freedom Project (RFP).

This year's event raised over \$60,000 that will support the educational, advocacy and legal work of the RFP. Thank you for your support! We are just shy of our \$65,000 fundraising goal for the event. If you made a pledge, or want to make an extra gift for the RFP, mail it to: ACLU-KY, 315 Guthrie Street, Suite 300, Louisville, KY 40202.



The RFP serves as a critical voice in the Kentucky Legislature for reproductive rights. We are proud to work closely with our coalition partners at Planned Parenthood of Indiana and Kentucky, the Clinic Escorts, the Kentucky Support Network, A-Fund, the Kentucky Health Justice Network, the Kentucky Religious Coalition for Reproductive Choice and others. Special thanks to Christine Calacsan for photographing the evening.



Photos from top:

ACLU-KY Executive Director Michael Aldridge talks about recent reproductive freedom legal wins.

More than a hundred supporters gathered for the event at Genscape in Old Louisville.

RFP Supporters Mary Jo and Glenn Davis (left to right) Anne McKune, Jay and Cara Baribeau



SPECIAL THANKS TO THE 2017 REPRODUCTIVE FREEDOM PROJECT BENEFIT SPONSORS

DEFENDERS (\$250-499)

Amelia (Mikki) Adams
Kim Boland and Conor O'Driscoll
Kyle Ann Citrynell
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Elizabeth Dinkins and Ted Shouse
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Juliet C. and Laman Gray, Jr., MD
Martha and Peter Hasselbacher
Caroline and Tim Heine
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Tracy K'Meyer and Glenn Crothers
Nana Lampton
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Stanley and Sally Macdonald
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Darrell and Nancy Shelton
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PLEASE REMEMBER THE ACLU OF KENTUCKY IN YOUR END-OF-YEAR GIVING.

VOLUNTEER SPOTLIGHT



We're grateful to our volunteers who help with projects throughout the year. Last fall, southern Indiana high school student **Kenady Hess** volunteered with our Legal Program. She helped our attorneys investigate potential violations of the Establishment Clause in public schools and around the state. She willingly assisted on various projects with an acute intellectual curiosity and a smile on her face. A staff member at her school said Kenady was mesmerized and excited about her time with us and the work we do. We wish her well in her future studies and we know there are great things in her future!

We rely on our members in all corners of the commonwealth to help us protect civil liberties. If you're interested in volunteering with the ACLU of Kentucky, please visit www.aclu-ky.org and click on the "Get Involved" tab on the home page.

Join us for an evening of eating, drinking, and merrymaking at our

ACLU OF KENTUCKY HOLIDAY OPEN HOUSE

Friday, December 8, 5:30-7:30 PM
ACLU of KY Offices, 315 Guthrie St., Suite 300
Louisville, KY 40202



Save the date for the 2018
WE THE PEOPLE DINNER
presented by Susan Hershberg and Wiltshire Pantry

This dinner raises funds for and celebrates the ACLU of Kentucky and Fairness Campaign's work on the front lines to create a more equitable Kentucky for all of us. We're excited to return to the Speed Art Museum for what we hope will be another sold-out event. Mark your calendar for March 24, 2018, and watch our Facebook page for ticket information.