



The Torch

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

WELCOME NEW MEMBERS!

Since the November 2016 elections, the ACLU of Kentucky's membership has *tripled* to more than 7,500 supporters statewide! It will take all of us to overcome the extraordinary challenges we face; we're so glad to have you at our side.

If you are new to *The Torch*, this is a publication you will receive each spring and fall. Keep up with the ACLU of Kentucky's activities in real-time, and learn more about our work by visiting our website www.aclu-ky.org. While you are there, sign up to receive our Action Alert emails (see the right side of the home page). If you are on social media, like our Facebook page and follow us on Twitter @ACLUofKY. If you have questions, concerns or want to share feedback, email us at info@aclu-ky.org.

Also note, the national ACLU is working hard to process all new memberships. If you haven't received your membership card yet, it'll be on its way to you soon!



Heather Hyden and Jimmy Earley in a Senate Committee shortly before they testified against the bill that bans abortion at 20 weeks.

who have received a tragic diagnosis related to the health of the fetus, nor those who are survivors of rape or incest. Heather Hyden of Lexington, who was 14 weeks pregnant, testified before both House and Senate committees that her fetus had anomalies that were incompatible with life. Devastatingly, she testified this new law could force her into ending her pregnancy ahead of the 20 week deadline before her doctors exhausted all avenues of medical testing. She asked both committees, as well as the bill sponsor to oppose the measure, but specifically requested that, should the bill pass, exceptions be made for circumstances like hers. Ultimately, the measure was rushed through and these important concerns were not addressed.

The ultrasound bill forces doctors to perform and narrate an ultrasound on patients who have made the decision to end a pregnancy. If a heartbeat is present, doctors must auscultate the audio for their patient. The law allows patients to "avert" their eyes or cover their ears, but it does not allow a doctor the option to modify or skip portions of the narration if they believe it will cause the patient harm. The ACLU-KY is currently challenging the constitutionality of this measure in Federal Court.

THE 2017 GENERAL ASSEMBLY

BY KATE MILLER, ACLU-KY ADVOCACY DIRECTOR

The 2017 regular session of the Kentucky General Assembly has come to a close. A new era was ushered in at the Capitol with Republicans controlling the House of Representatives for the first time in nearly a century; a feat all the more historic alongside GOP control of the state Senate and Governorship.

ABORTION

The General Assembly moved at unprecedented speed the first five days of the session to pass two bills restricting abortion, a ban on the procedure at 20 weeks gestation and a mandatory, narrated ultrasound before the procedure. The 20 week abortion ban offers no exceptions for Kentuckians



Above: (left to right) Professor Justin Nix, Reena Piracha, Chanelle Helm, Kate Miller, and Julie Kaelin testify against the “Blue Lives Matter” bill. Left: College students Sandra Martinez and Fredy Encarnacion met with Rep. Al Gentry to talk about their experiences with the immigration system.



PREGNANT WORKERS

The ACLU-KY worked in coalition to support the pregnant workers bill, which was successfully filed by Republican lawmakers (Sen. Alice Forgy Kerr and Rep. Jason Nemes) in both the House and Senate. The bills did not receive hearings in their respective chambers, but we expect an interim discussion this summer to better position us for progress in the 2018 session. The measure offers relief to pregnant Kentuckians who require modest accommodations to stay on the job and maintain a healthy pregnancy.

IMMIGRATION

Several anti-immigrant bills were filed during the 2017 session, but none advanced. People with direct experience with the immigration system had one-on-one meetings with lawmakers facilitated by ACLU-KY throughout the session.

RELIGIOUS LIBERTY

Bills “authorizing” religious practices in public schools,

already protected under the First Amendment, passed through the General Assembly. These bills are redundant, unnecessary, overly broad, and will very likely be implemented incorrectly. As we do with all bills of concern, we will monitor their implementation, and remind anyone that feels their rights have been violated to contact us.

JUSTICE

The ACLU-KY spent significant time and resources working with allies to oppose the so-called “Blue Lives Matter” bill. The measure adds police officers and other first responders to the hate crime statute. Previously, hate crime protections only extended to people based on immutable characteristics, for example, one’s ethnicity, disability status, or race, not to professional occupation. Reena Piracha of Prospect testified against the measure and highlighted her own experiences related to religion-based hate crimes. Though the measure faced serious opposition from a number of groups including

Black Lives Matter Louisville and national groups like the NAACP Legal Defense Fund, it passed with overwhelming support through the House and Senate.

There was also overwhelming support for the justice reform re-entry bill which was the top priority for the Kentucky Smart on Crime coalition, of which the ACLU is a partnering organization. The re-entry bill puts in place policies to more effectively transition Kentuckians out of prison or jail and back into their community. The measure eliminates the automatic prohibition on professional licenses for those with prior convictions, adds new opportunities for Kentuckians to earn credit toward the length of their parole, and creates a system to allow jails to put in place day reporting and re-entry centers.

LGBT

Notably absent from the 2017 session was the passage of any North Carolina-like anti-LGBT bills, including the trans-bathroom bill. While measures were filed in the House, Speaker Hoover declared them “dead on arrival.”

PRIVACY

A bill filed to require law enforcement to obtain a warrant before using a drone to collect evidence on a suspect made it out of the House and through a Senate committee before time ran out for a vote from the full Senate. This measure, filed by Rep. Diane St. Onge (R), has been filed for several years without progress; this year’s movement was notable, though we are disappointed to see it fail to make it onto Gov. Bevin’s desk.

Kentucky is now poised to come into compliance with the Federal REAL ID Act, which the ACLU opposes. Bill Sponsor Rep. Jim Duplessis (R) was receptive to our recommended

changes to protect Kentuckians’ privacy, and did file a floor amendment to accommodate our requests.

DEATH PENALTY

The ACLU of Kentucky’s Community Engagement Coordinator, George Eklund, led our repeal work by hosting “Repeal Wednesdays” during the session. George worked in coalition to connect Kentuckians who oppose the death penalty to their lawmakers. George facilitated 17 meetings; consequently, this year’s bill in the House, carried by Rep. Jason Nemes (R), reached a record number of co-sponsors with 19. Sen. Gerald Neal (D) filed a companion bill in the Senate.

CONSTITUTIONAL CONVENTION

Several bills to recommend a constitutional convention or “concon” were filed. The bills failed to pass out of committee, but there was an informational hearing for discussion. The sponsors of the measures said these conventions would exclusively focus on the advancement of a balanced budget amendment, but there appears to be consensus among constitutional experts that there is no way to ensure a constitutional convention could not dramatically alter everything within the constitution. To trigger a convention, 34 states must move forward resolutions and by conservative estimates 29 states have already done so.

The 2018 legislative session will be a “long session” or 60 working days during which the General Assembly will be responsible for tackling the budget. We are already working with coalition partners to promote our agenda for the upcoming session. You can help! If you have experience or expertise in any of our issue areas, or just want to be a part of a legislative meeting you can contact Kate Miller at kate@aclu-ky.org.

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LEGAL UPDATE

BY WILLIAM E. SHARP
LEGAL DIRECTOR



ACLU-KY Legal Fellow
Heather Gatnarek



Over the past several months, there have been many developments in the Legal Program, both in terms of our docket and organizational structure. Perhaps most significantly, the ACLU of Kentucky’s Board of Directors authorized the hiring of a second attorney to fill a one-year Legal Fellowship. This marks the first time in our history that we have employed two full-time attorneys. After an extensive search and interview process, we were pleased to hire Heather Gatnarek for that position. Heather started working with us in March, and she previously worked for Ky’s Dept. of Public Advocacy where she served as a capital trial attorney for the past 5 years. She received her undergraduate degree from Boston College, and her JD from Georgetown.

Fortunately for Heather (and for us), she could not have started at a better time. This year alone, we have already partnered with the national ACLU’s Reproductive Freedom Project to file two separate lawsuits on behalf of EMW Women’s Surgical Center. The first challenges a newly enacted law forcing doctors to show women seeking an abortion ultrasound images, auscultate the fetal heartbeat, and provide a detailed description of the fetus prior to performing the abortion even over their patients’ objections. The second case challenges the authority of the Cabinet for Health and Family Services to revoke EMW’s operating license on the basis of allegedly deficient hospital and ambulance transfer agreements (agreements that the Cabinet itself approved when it renewed EMW’s license). In first case, we are also working with attorneys from the New York firm of O’Melveny & Meyers LLP, and in the second we are working with the Louisville firm of Lynch, Cox, Gilman & Goodman P.S.C.

And in a free speech case we filed late last year, we are partnering with Freedom From Religion Foundation on behalf of a Kentuckian denied a personalized license plate by the Transportation Cabinet. The Plaintiff seeks to obtain the same personalized license plate he’d had in

Ohio for many years before moving to Kentucky — “IM GOD.” When he initially applied for the license plate, the Cabinet denied his request claiming it would be “obscene.” When challenged on that decision, the Cabinet abandoned that rationale and then claimed that the plate would be “offensive to good taste and decency.” Once it became evident that informal attempts at resolution would be unsuccessful, we filed suit and are in the early stages of litigation.

In another case involving free speech in which we filed an amicus brief, we were recently pleased to see the Kentucky Supreme Court issue a favorable ruling. We worked with cooperating attorneys Tad Thomas and Lindsay Lopez of the Thomas Law Office to file an amicus brief in the criminal appeal of *Champion v. Commonwealth*. In our brief, we argued that Lexington’s panhandling ordinance violated the First Amendment’s Free Speech clause. Agreeing with our conclusion, the Court on February 16th declared the ordinance unconstitutional, and it ordered Mr. Champion’s conviction be vacated and the case dismissed. Mr. Champion was represented on appeal by the Department of Public Advocacy’s Linda Horsman.

NEW MEMBERS OF THE BOARD OF DIRECTORS



JENNY HEITKEMPER



MICHAEL NOYOLA-IZQUIERDO



CURTIS STAUFFER



PATTI PIATT



JEFF JOHNSON

The nominating committee of the ACLU-KY is pleased to welcome five individuals to new terms on the Board of Directors. Candidates were elected by the membership, who had the option to cast their votes online, by mail, or in person at our Annual Meeting on April 19th. The new members' terms will last until spring 2020. The new members introduce themselves here:

JENNY HEITKEMPER

Jenny is Manager of Mergers & Acquisitions at Yum Brands, and has held numerous financial/accounting positions at Yum Brands and Humana over the past 15 years. Jenny has both an MBA and a Music Performance Degree, and has served as a board member and volunteer for local non-profit organizations, such as the Louisville Youth Orchestra and Jewish Family and Career Services. A 2012 graduate of Ignite Louisville, Jenny looks forward to serving the community as an ACLU-KY Board Member.

MICHAEL NOYOLA-IZQUIERDO

Besides active involvement in LGBTQ advocacy and immigration rights, I have volunteered for community development and social justice groups, including Common Ground in New Orleans after Katrina, God's Love We Deliver (bringing meals to home bound people with HIV), New York Cares, Read to a Child (lunchtime program with school kids), St. Xavier Welfare Rights Projects, and Habitat for Humanity

As a gay man and son of an immigrant, I bring a uniquely personal perspective to our work defending civil liberties. I don't have to imagine what it's like to be without basic human rights – I've lived it!

CURTIS STAUFFER

I'm a resident of Louisville, who serves as the Assistant Director of Louisville Metro Government's Develop Louisville Office of Housing & Community Development. Before starting this position in November 2016, I was Executive Director of the Homeless & Housing Coalition of Kentucky in Frankfort. I led the non-profit's advocacy

and development efforts and oversaw its supportive housing voucher and AmeriCorps programs.

I earned my MA from Temple University and I have a BA from Macalester College. My local community involvement includes over 5 years of service on the St. John Center for Homeless Men Board of Directors and as a member of the Jefferson County chapter Economic Justice Committee of Kentuckians For The Commonwealth (KFTC).

PATTI PIATT

I live in Northern Kentucky and am currently employed as the Director of Food Services at the University of Cincinnati Medical Center. In my work I have been blessed with the opportunity to work with a diverse workforce who allowed me to reach out and learn about their cultures and values. I am committed to keeping Kentucky and the nation a haven of diversity.

A lifelong activist, I have a passion for women's rights. I have been a member of NOW, NARAL and have supported reproductive rights as a clinic escort and vocal supporter of a woman's right to choose. I have protested in Frankfort, Lexington and Northern Kentucky in support of reproductive rights and healthcare. I have supported Black Lives Matter of Cincinnati as a marshal. I serve on the American Foundation for Suicide Prevention of Greater Cincinnati. My areas of focus are prevention, particularly in the LGBTQ community.

I feel that this opportunity to work with the ACLU will allow me the greatest opportunity to heed the voice of the people by continually reimagining the

tactics and methods necessary to protect the civil liberties of all individuals throughout this great state, during one of the most consequential moments in our history.

JEFF JOHNSON

Dr. Jeff Johnson is in private practice in Danville, Kentucky. Dr. Johnson is a graduate of Centre College and the University of Kentucky College of Dentistry. He completed a residency in Pediatric Dentistry in 2003. He also has a Master of Public Health from the University of Kentucky College of Public Health. Before starting his practice, Dr. Johnson served as an Assistant Professor and Graduate Program Director in the Division of Pediatric Dentistry at the University of Kentucky College of Dentistry. He has four internationally adopted children (3 from Guatemala and 1 from South Korea). Dr. Johnson is actively involved in his community where he works to help better the lives of those around him. Whether it is through his practice as a pediatric dentist, his involvement in the Back Pack Kids programs, or his work in and for the local schools, Jeff is committed to those around him. Working to help find solutions for food insecurity, housing instability, and/or healthcare disparities, he has used his practice and position in the community to demonstrate servant leadership. Despite having grown up in a very rural Southeastern Kentucky town, his parents taught him that, regardless of our differences, we are all created equal. Dr. Johnson works hard to instill those same principles and values in his own kids. In fact, it is for his own kids and countless others like them that he wants to serve on the ACLU-KY board.



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ANNUAL MEETING



Top: New members of the Board of Directors (not pictured Michael Noyola-Izquierdo); Photobooth fun at the 2017 Annual Meeting held April 19th at Akasha Brewing Company.



The Wiltshire Dinner



 The ACLU-KY would like to extend a very special “Thank You” to Susan Hershberg and the Wiltshire Pantry for an elegant dinner on March 25th. The annual celebration honors the committed partnership between the Fairness Campaign and the ACLU of Kentucky as well as the contributions of those who work daily protecting the civil liberties and the civil rights of all Kentuckians. This year’s event had a record breaking crowd of 500 attendees that mixed and mingled in a new event space, the Speed Art Museum. Special thanks to our generous sponsors who helped make this event a success, and Brymer Photography for capturing special moments throughout the evening!

Top: (clockwise) Chris Hartman, Dawn Wilson, Susan Hershberg, Randy Strobo, Michael Aldridge; Amir and Reena Piracha; Bridget Pitcock and Meg Hancock.

Left: (top to bottom) Kristen Massingill, Maggie Johnson, Missy Jackson, Kaila Story, Jaison Gardner; Becky Roehrig, Hon. Congressman John Yarmuth, Lisa Gunterman.

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VOLUNTEER SPOTLIGHT

Since Election Day, our membership is stepping up to get involved and volunteer with our organization. In a matter of weeks, more than 100 members have helped advance our issue work by phone banking, stuffing envelopes, and helping with data entry in our Louisville office. More than 350 members statewide have filled out an interest form and stand ready to assist.

One outstanding volunteer is **Roy Templeton** of Louisville. He became engaged with the ACLU-KY after attending a screening of Oliver Stone's film Snowden. Since then Roy has become a regular face around the office. He has performed data entry, attended rallies, helped out at phonebooks, and brings apples for the office to enjoy. "I feel like the work I do, in some small way, contributes to the ACLU mission," Templeton said. "And it helps

bring people together in a common, 'Rule of law,' purpose," he added. Roy's work has reaffirmed that one of the ACLU's best assets is the dedicated members who support us.

The amount of work in the coming years is large. We need members in all corners of the state to take ownership of priority issues in their area and work so that we don't go back. If you are 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.

SAVE THESE DATES

TOUR OF WESTERN KENTUCKY

Starting **May 31st** our Advocacy Director and Community Engagement Coordinator will host a series of meet-and-greets with our members in several Western Kentucky communities. Keep an eye on our calendar at www.aclu-ky.org for event information.

We will be hosting tours in other regions over the next six months. If you are interested to participate in an in-district meeting contact George Eklund at George@aclu-ky.org.

REPRODUCTIVE FREEDOM PROJECT BENEFIT

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