

THE TORCH

CAN'T KILL
THE CULTURE

ACU

Kentucky

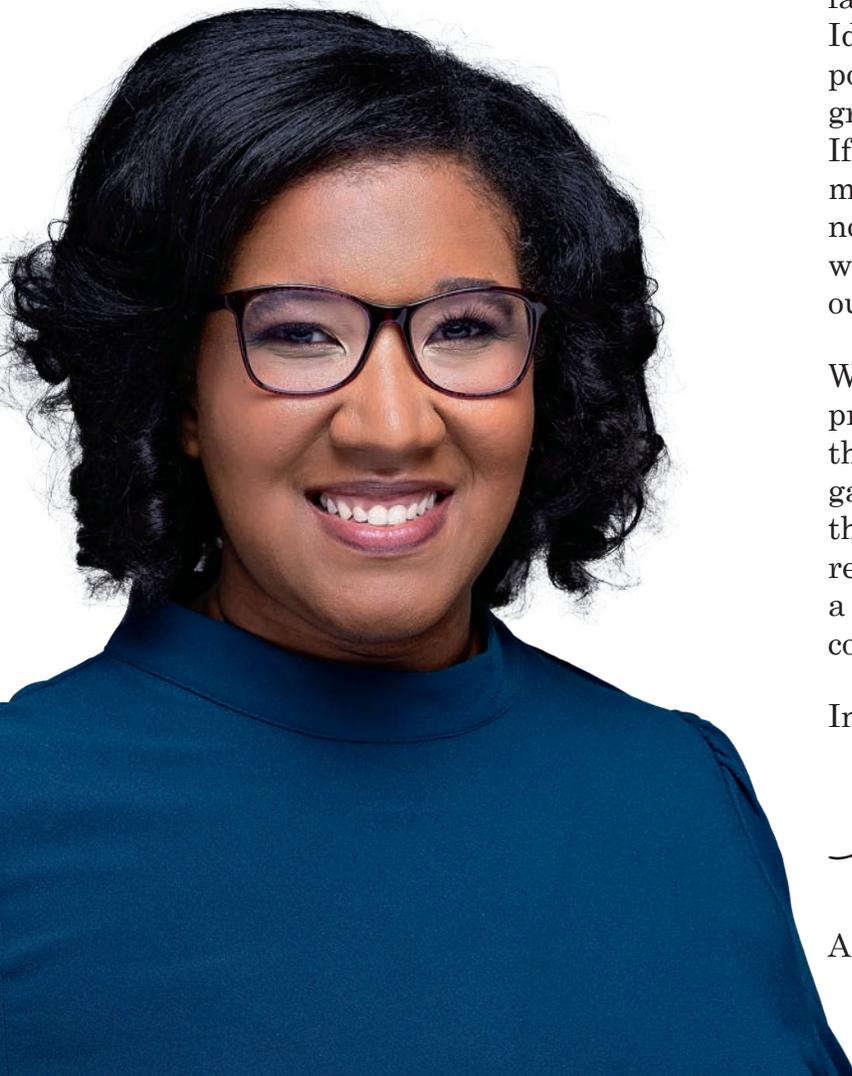
For the People

EXECUTIVE DIRECTOR UPDATE

A note from Amber Duke

The 2024 Kentucky General Assembly gavels in on January 2, and we at the ACLU of Kentucky are reflecting on this year's challenges and accomplishments, while also strategizing our next steps in protecting civil liberties for people across the Commonwealth.

Since last year's session, we've continued to grapple with a lack of access to reproductive freedom and the dangerous health outcomes that has on pregnant Kentuckians. Meanwhile, Senate Bill 150 continues to deny transgender youth the medically necessary care they need and deserve.



Despite this hostile climate, we have celebrated wins that move us further toward protecting civil liberties for all. When the preliminary injunction was reversed in *Doe v. Thornbury* — our lawsuit restoring medically necessary care for transgender youth in Kentucky — in late September, for instance, it resulted in a dissent from one of the deciding judges. Although it's not the outcome we'd hoped for, the dissent itself highlighted the importance of perseverance in our fight for a more equitable Kentucky. We are now asking the United States Supreme Court to hear our case and ultimately hold that trans youth have a constitutional right to the care they need. We are reminded systemic change is rarely fast or easy, but the hard work is certainly worth it — especially with Kentuckians' lives and wellbeing on the line.

The ACLU of Kentucky is approaching the 2024 legislative session with a focus on harm reduction and relief strategies surrounding our core issue areas: maternal health, paid family leave, Clean Slate, and Liberation Identification — all of which have the potential to influence one another and lay the groundwork for future policies and legislation. If we have learned anything about what it means to protect civil liberties for all, it is that none of us are free until we address injustices with an intersectional approach that prioritizes our layered identities.

We must remain steadfast in our efforts to prioritize the lived experiences of people across the Commonwealth — even when we do not garner immediate results. Our commitment to this work and the people it affects gives us the resolve we need to continue moving towards a more equitable Kentucky. I hope you will continue to fight alongside us.

In solidarity,

A handwritten signature in black ink that reads "Amber G. Duke".

Amber G. Duke



2024 KENTUCKY GENERAL ASSEMBLY

The 2024 legislative session, which begins January 2 and runs until April 15, will be significant in our efforts to provide relief to Kentuckians at a crucial time in history. Our team, alongside grassroots organizers and partner organizations, will be in Frankfort working with lawmakers to offer our expertise on new bills, improve existing bills, and pass legislation central to our mission of defending the civil rights and liberties for all people of Kentucky.

Our goal is to address four key issue areas during the 60-day session:

- > **Improved maternal health outcomes**
- > **Providing statewide paid family leave**
- > **Automating portions of the expungement process through Clean Slate legislation**
- > **Securing funding for state-issued identification for Kentuckians reentering their communities after incarceration**

We aim to pass specific pieces of legislation within each issue area that align with and lay the groundwork for long-term successes. As always, ACLU-KY will continue to stand between the people of Kentucky and politicians who seek to dismantle the rights guaranteed to us by the state and federal constitutions. Whether it's attacks on healthcare, attempts to censor free speech, or book bans, we exist to hold power to account.

KYGA 2024: THE BASICS

- > **The Kentucky General Assembly, made up of 100 state representatives and 38 senators, is our state's legislative branch. Together, they are responsible for making and improving state laws.**
- > **Every bill must be approved by both the House and the Senate to move forward in the process to becoming law.**
- > **Sessions last 30 legislative days in even-numbered years and 60 legislative days in odd-numbered years.**
- > **With the entire House and half the Senate seats (odd-numbered districts) up for election in November 2024, the upcoming session is significant because it will provide a glimpse into legislators' stances on issue areas that affect Kentuckians.**



at the forefront of the country's crisis. The national maternal mortality rate rose 60% between 2019 and 2021 and more than doubled over the last two decades. Experts estimate that in Kentucky, 91% of those deaths are preventable. Maternal mortality rates are even higher for Black and brown pregnant people, who are 4 times more likely to die during or after childbirth than their white counterparts.

THE UNITED STATES CURRENTLY HAS THE HIGHEST MATERNAL MORTALITY RATE AMONG WEALTHY NATIONS, WITH KENTUCKY AT THE FOREFRONT OF THE COUNTRY'S CRISIS.

There are several contributing factors to Kentucky's poor maternal health outcomes, including racial disparities, inequitable access to medical professionals, and a lack of resources like transportation and paid leave. When the 2022 fall of *Roe v. Wade* enacted Kentucky's trigger ban, Kentucky became a forced pregnancy state, creating additional barriers in the struggle for equitable maternal health across the Commonwealth. Forcing people to remain pregnant against their will, combined with the racial and economic disparities many birthing people already face, means our maternal health outcomes will continue to worsen.



MATERNAL HEALTH IN THE COMMONWEALTH

The ACLU of Kentucky has worked for decades to preserve and expand reproductive rights across the Commonwealth. While the work has often entailed fighting to protect access to the full spectrum of reproductive care, including the right to abortion, our reproductive freedom work does not — and cannot — end there.

This becomes particularly apparent when examining maternal health and mortality in the Commonwealth. The United States currently has the highest maternal mortality rate among wealthy nations, with Kentucky

RACIAL DISPARITIES

The Problem:

Maternal mortality rates are higher for people of color regardless of factors like education level or income. That's because racism shows up in healthcare as implicit bias, resulting in unequal treatment of patients.

The Solution:

- > **Expand access to culturally competent health care and community health workers.**
- > **Reimburse doulas through Medicaid to foster accessibility.**
- > **Provide additional support for midwives, lactation professionals, and other healthcare professionals.**

SOCIOECONOMIC FACTORS

The Problem:

Reproductive health care services for Kentucky families living in poverty are limited and often fail to address practical needs.

The Solution:

- > **Require Medicaid coverage for lactation support and supplies and exempt certain post-natal supplies from sales and use tax.**
- > **Provide access to doulas and midwives for people who are incarcerated.**
- > **Build on the success of the 2021 Dignity Bill by passing legislation requiring The Cabinet for Health and Family Services to accept SNAP benefits applications from incarcerated people six months prior to their release.**



ABORTION BANS ARE BELIEVED TO INCREASE MATERNAL MORTALITY, ESPECIALLY FOR BLACK PEOPLE, WITH A PREDICTED INCREASE OF 33% MORE DEATHS.



KENTUCKY HAS THE 2ND HIGHEST MATERNAL MORTALITY RATE IN THE NATION. BETWEEN 1 AND 2 KENTUCKIANS DIE EACH WEEK FROM MATERNAL HEALTH PROBLEMS



BLACK KENTUCKIANS ARE 3-4X MORE LIKELY TO DIE DURING OR AFTER GIVING BIRTH COMPARED TO THEIR WHITE COUNTERPARTS



PAID FAMILY LEAVE

No one should have to make the impossible and often conflicting choice between caring for their child and a paycheck. But that's the dilemma working Kentuckians currently face.

Roughly 80% of people in Kentucky do not have access to paid leave through their employer, forcing working Kentuckians to choose between their jobs and caring for their children, other family members, or even themselves. The positive impacts of paid leave legislation extend far beyond the individual to affect our economy and public health and foster a more equitable Kentucky.

NO ONE SHOULD HAVE TO MAKE THE IMPOSSIBLE AND OFTEN CONFLICTING CHOICE BETWEEN CARING FOR THEIR CHILD AND A PAYCHECK.

RACIAL DISPARITIES

The extensive wealth gap between white and Black Americans means Black Americans are more likely to lack the necessary resources to absorb a temporary loss of income if required to take time off work for parental or medical leave. This directly relates to the disproportionate maternal and infant mortality rates among Black Kentuckians. Paid leave could help close that gap.

EARNING POTENTIAL AND MATERNAL HEALTH

Birthing people are most affected by the discrepancies in earning potential from a lack of paid leave policies. They must choose between OB/GYN appointments and post-natal recovery that supports maternal and infant health and remaining in the workforce — a nearly impossible decision that often leads new parents to leave their jobs altogether. Access to paid leave increases the chance of new parents, especially women, returning to work, ultimately increasing their earning

potential. Research shows an additional 90,000 Kentuckians could participate in the labor force with paid family leave policies.

PUBLIC HEALTH

Individuals and families can properly address health issues when they are not burdened by the financial strain that comes with unpaid time off, resulting in better health outcomes for Kentuckians and reducing healthcare costs.

Maternal health is a public health issue. A lack of paid leave makes it difficult — and sometimes impossible — for pregnant people and parents to attend pre- and post-natal OB/GYN appointments, breastfeed, or recover from giving birth. Our state faces high maternal mortality rates, poor infant outcomes — especially for Black infants who are twice as likely to die before their first birthday than white infants — and increasing substance use disorders among pregnant people as a result.

IMPROVED ECONOMIC STABILITY

Access to paid leave increases participation in the workforce across the board because employees can return to work instead of experiencing job loss after necessary events like giving birth, postpartum healing, caring for sick family members, or taking care of their own health issues. Increased workforce numbers mean a decrease in turnover rates for employers, ultimately saving businesses money.



LEGAL UPDATE

DOE V. CAMERON

On December 8, a Kentucky patient plaintiff filed a lawsuit on behalf of all Kentuckians who are pregnant and seeking abortion to strike down abortion bans in the Commonwealth, which have been in effect since August 2022, under the state constitutional right to privacy and self-determination. On December 18, our attorneys dismissed the suit.

The Kentucky Supreme Court's decision earlier this year to take away health care providers' ability to raise the rights of their patients has backed Kentuckians into a corner. The court's decision has forced Kentuckians seeking abortion to bring a lawsuit while in the middle of seeking time-sensitive health care, a daunting feat, and one that should not be necessary to reclaim the fundamental right to control their own bodies. But we won't stop fighting. We encourage others in Kentucky who are currently pregnant and seeking an abortion to reach out to us if they are interested in bringing a case — call or text us at (617) 297-7012. We will continue to use every tool in our toolbox to restore the right to abortion for every person in Kentucky.

The ACLU of Kentucky encourages other Kentuckians who are pregnant and seeking an abortion to contact us.

IF YOU ARE PREGNANT IN KENTUCKY AND SEEKING AN ABORTION. CALL OR TEXT US AT (617) 297-7012.

WE WILL DO EVERYTHING WE CAN TO RESTORE ABORTION ACCESS IN KENTUCKY.

**ACLU
KY**



DOE V. THORNBURY

In April 2023, Kentucky passed Senate Bill 150, a law that bans transgender youth from receiving medically necessary health care in Kentucky. It also forces transgender youth who have been receiving care to stop following their prescribed treatment plan. Major medical associations — including the American Academy of Pediatrics, the American Academy of Family Physicians, and the American Medical Association — oppose the law because it violates basic ethical and informed consent principles.

Shortly after the legislation passed and on behalf of seven Kentucky families, the ACLU of Kentucky and our partners filed a lawsuit challenging that law. Although we initially were successful in challenging the law, the Sixth Circuit Court of Appeals issued a decision in September upholding the ban and the law is currently in effect.

We recently asked the U.S. Supreme Court to review that decision and ultimately reverse the decision. With the filing of our petition for a writ of certiorari and a similar filing in the Tennessee ban on essential healthcare for transgender youth, these cases become the first challenge to transgender healthcare restrictions to reach the Supreme Court. We expect to learn whether the Supreme Court will hear this case sometime in 2024. Regardless of the Court's decision, we will not stop fighting for transgender youth in Kentucky.

SECOND ANNUAL MATERNAL HEALTH LUNCHEON

ACLU-KY AND SISTERSONG COLLABORATE FOR THE SECOND ANNUAL MATERNAL HEALTH LUNCHEON

The second annual Maternal Health Luncheon, co-hosted by the ACLU of Kentucky and SisterSong, was an opportunity for maternal health organizations, advocates, and community members to connect and share insights to improve maternal health outcomes in the Commonwealth. Along with an opening by Amber Duke and policy presentations by both organizations, this year's luncheon featured keynote speaker Monica Simpson (pictured below), SisterSong Executive Director.



2023 REPRODUCTIVE FREEDOM BENEFIT RECAP

The ACLU of Kentucky staff, board, donors, community partners, and volunteers gathered once again for the annual Reproductive Freedom Project Benefit. Launched in 1989 under the guidance of then-executive director Suzy Post, the Reproductive Freedom Project works to defend and expand access to the full spectrum of reproductive care across the Commonwealth.

Almost 35 years after the Reproductive Freedom Project's inception, we continue to host an annual benefit to gather with our partners, volunteers, and donors who tirelessly defend Kentuckians' right to reproductive freedom. This year's event included speeches from Executive Director Amber Duke,



Senior Policy Strategist Jackie McGranahan, and Campaign Coordinator Heather Ayer. As always, we will continue to fight for Kentuckians' right to make choices about their own bodies and for equitable access to the resources that aid them in doing so.

WHILE KENTUCKY REMAINS A FORCED PREGNANCY STATE, WE ARE STEADFAST IN OUR DEDICATION TO RESTORING ABORTION ACCESS TO COMPLETE REPRODUCTIVE FREEDOM FOR ALL KENTUCKIANS THROUGH EDUCATION, ADVOCACY, AND LITIGATION.

To that end, we have launched a statewide Reproductive Freedom Project campaign, consisting of local action teams that advocate for better policies in their communities and in Frankfort. Fill out a volunteer interest form at [ACLU-KY.org](https://www.aclu-ky.org) to find out more and get involved.

ANOTHER SUCCESSFUL RFP BENEFIT:

- > NEARLY \$100,000 RAISED TO HELP US PROTECT REPRODUCTIVE FREEDOM IN THE COMMONWEALTH
- > 200 GUESTS ATTENDED THE BENEFIT TO BE IN COMMUNITY WITH OTHER REPRODUCTIVE FREEDOM ADVOCATES
- > 37 SPONSORS GAVE TO HELP US MAKE THE EVENT HAPPEN AND TO ENSURE THE FUTURE OF OUR STATEWIDE REPRODUCTIVE FREEDOM WORK



CLEAN SLATE POLICIES

Tens of millions of people in the US are burdened with legal records that act as barriers to opportunities such as education, employment, and housing. That's because any criminal history — including arrests that never result in a conviction and decades old misdemeanors — remain on record for law enforcement, government agencies, and the public to see until cleared through expungement, sealing, or a similar legal process.

THE PROBLEM: IMPRACTICAL CRIMINAL JUSTICE POLICIES

Record clearing is a lengthy and expensive petition-based procedure. Lack of time, resources, and legal support coupled with an already confusing justice system means many people don't have the capacity to undergo the record clearing process — even those who are legally eligible for relief. This is a barrier to opportunities because:

- > **Almost 94% of employers, 90% of landlords, and 72% of colleges screen applicants using background checks.**
- > **Job applicants with a record are half as likely to get a call back from a potential employer.**
- > **1 in 3 Americans have some sort of arrest or conviction record. That's between 70 and 100 million people who are personally affected by impractical criminal justice policies.**

Our society fails with a justice system that provides access to redemption for the wealthy and incessant punishment for working-class individuals.

THE SOLUTION: SECOND CHANCES THROUGH CLEAN SLATE LEGISLATION

Clean Slate legislation is a bipartisan policy model that increases access to second chances for people with records by automating the complicated and costly expungement process. Enacting Clean Slate

laws in the Commonwealth means Kentuckians would no longer be defined by their past and barred from meaningful opportunities that allow them to provide for their families, reach their full potential, and contribute to their communities.

LIBERATION IDENTIFICATION

A KEY TO REENTRY

When leaving incarceration, most Kentuckians are without a basic tool needed for access to opportunities and resources essential for successful reentry — a photo ID. People returning to their communities without a photo ID cannot access housing, employment, nutrition assistance, substance use treatment, and healthcare, including mental health services. These resources are critical for all but take on a unique significance for those who are reentering their communities because they often lack resources necessary for survival.

Securing a state-issued photo ID requires documents that many people leaving incarceration don't have access to, such as social security cards and birth certificates. The time-consuming process of obtaining these documents is an immediate barrier for people leaving incarceration. Coupled with survival needs that cannot wait, not having photo ID can lead people back to incarceration.



KENTUCKY CAN'T WAIT

- > **Kentucky's incarceration rate is one of the highest in the nation, with a recidivism rate of over 30%. Failing to provide support to those reentering the community perpetuates our mass incarceration and recidivism crisis.**
- > **Our state consistently has one of the lowest workforce participation rates in the nation. With an overwhelming majority (95%) of incarcerated people in Kentucky being released at some point, we have the potential to significantly increase workforce participation and bolster the economy.**
- > **Lack of photo ID funding disproportionately affects Black and brown people, as incarceration rates are higher for them.**

BREAKING THE CYCLE

We must ensure Kentuckians have the most basic tool needed after incarceration to affect change in a way that inspires sustainable success for reentering individuals. As of 2022, all 14 state prisons have invested in Liberation Identification — a pilot program that provides state-issued ID to people leaving incarceration. To strengthen the impact of the program, we are advocating for policymakers to invest in it statewide so all facilities, including county jails, can provide state-issued photo ID to those reentering their communities.

“You pay both ways. You can pay a small amount and it actually lead to a successful, productive member of society. Or you can pay a large amount and keep them locked up forever. It's really up to you. And it's really up to us, we as the state of Kentucky.”

- Selena Coomer, Smart Justice Advocates Co-Leader

Without such support, Kentucky will continue paying the consequences of high incarceration and recidivism rates. The bottom line: an investment in formerly incarcerated individuals is an investment in Kentucky.



Kentucky

325 W. Main Street
Suite 2210
Louisville, KY 40202

ADDRESS SERVICE REQUESTED

@ACLUofKY
ACLU-KY.org



LEGISLATIVE SESSION PREVIEW, ADVOCACY UPDATE, LEGAL UPDATE, MATERNAL HEALTH LUNCHEON, & RFP BENEFIT

SAVE THE DATE

January 8, 2024 | Legislative preview

January 17, 2024 | Paid Family Leave Lobby Day

January 24, 2024 | SJA Lobby Day

January 31, 2024 | Abortion Access LobbyDay

February 7, 2024 | Black Maternal Health Lobby Day

February 13, 2024 | Abortion Rally

February 21, 2024 | Fairness Rally

February 28, 2024 | SJA Lobby Day

March 6, 2024 | Paid Leave Lobby Day

March 12, 2024 | CROWN Act Rally

March 20, 2024 | SJA Lobby Day



PLEASE
NOTE THE
NEW EVENT
LOCATION.