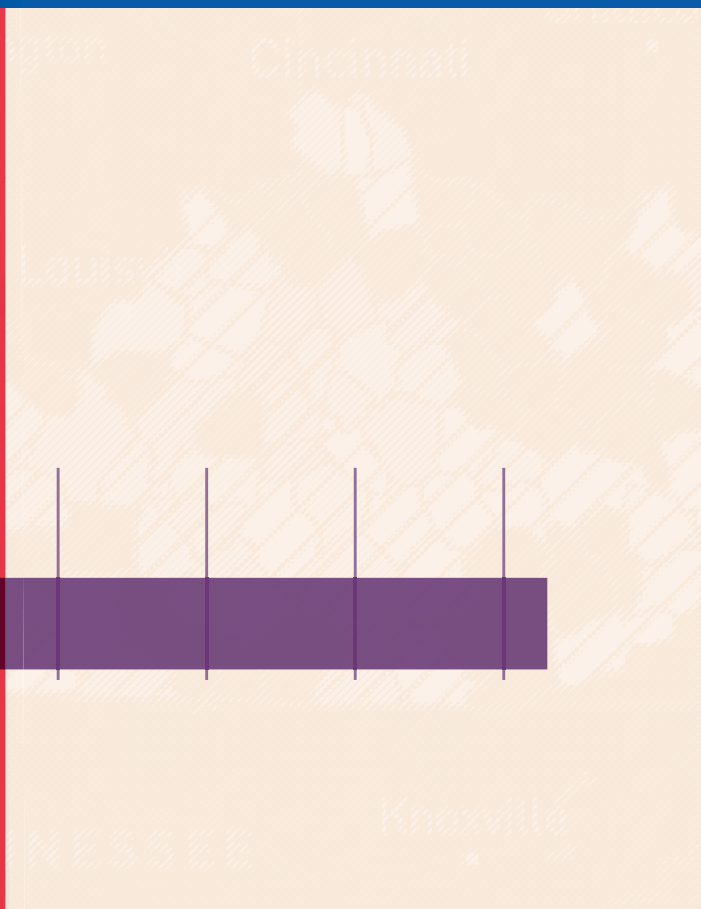




AMERICAN CIVIL LIBERTIES UNION
Kentucky



Freedom's watchdog.

The ACLU of Kentucky works in courts, in the state legislature, at city councils, and with grassroots activists to defend the civil rights and liberties of all people in Kentucky guaranteed by the United States and Kentucky Constitutions.

At the state house, we work with legislators to propose new bills, make bills better, and defeat harmful legislation. We also connect legislators with people directly affected by certain policies so lawmakers can learn about the real-life impacts of legislation – from mass incarceration, to racial equity in healthcare, to reproductive freedom.

Our legislative agenda is built around the issues that are core to the ACLU of Kentucky's mission. Some items are specific pieces of legislation we are prioritizing this year, and others are long term goals we are laying the groundwork to reach during future legislative sessions.

All of the ACLU of Kentucky's work is focused through a lens of racial justice.

Our nation's political system was built on white supremacy. We must dismantle the systems and policies that continue to uphold white supremacy and seek justice for past harms. Kentuckians of color – particularly Black Kentuckians – disproportionately bear the burden of these harmful systems and policies. Building our policy work around the goals of equity and justice for the most marginalized among us will repair some past harms and strengthen our commonwealth by helping all Kentuckians.

In addition to focusing our policy work through a lens of racial justice, we also consider *how we do our work* in that same way. The ACLU of Kentucky has long believed the people most affected by an issue have the best solutions. We work closely with grassroots organizations and groups such as the ACLU of Kentucky Smart Justice Advocates, and hire people who have personal experiences with the issues we work on.

Learn more about our work and meet the team [ACLU-KY.org](https://aclu-ky.org). Follow @ACLUofKY on Facebook, Twitter, and Instagram to stay up to date and get involved.

TABLE OF CONTENTS

2 Reproductive Freedom

Protecting access to abortion care
Improving maternal health
Fighting the Texas abortion ban and copycat bills

6 Smart Justice

Eliminating obstacles to treatment
Removing persistent felony offender laws
Expanding access to higher education
Protecting clemency
Utilizing clemency during the pandemic

13 Juvenile Justice

Preventing violence
Examining justice through a public health lens
Keeping kids out of adult court
Removing police from schools

16 LGBTQ Equality

Expanding Fairness protections
Banning conversion torture against children
Letting all kids play sports

19 Freedom of Speech

Stopping classroom censorship
Limiting frivolous SLAPP lawsuits

22 Racial Justice

Understanding the impacts of legislation

24 Voting Rights

Restoring voting rights

26 Immigrants' Rights

Keeping Kentucky families together

27 Resources

28 Image Credits

REPRODUCTIVE FREEDOM

Reproductive freedom is the ability of all people to have the legal rights and equitable access to resources to make the best decisions for themselves – whether that means continuing a pregnancy, seeking adoption, or accessing abortion care.

The ACLU of Kentucky has worked for decades to ensure the government is not allowed to force people to remain pregnant against their will. We will continue this fight during the 2022 legislative session, when lawmakers are expected to continue their years' long effort to block all access to abortion care in the commonwealth.

Our work on reproductive freedom doesn't stop at access to abortion care. We want to ensure that all pregnant people and parents have the legal rights and equitable access to resources to make the best decisions for themselves.

We're working with a wide variety of people to learn from those most affected to:

- reduce racial disparities in maternal and infant health
- protect and expand access to abortion care
- expand pre-K and paid leave so no parent is forced to choose between a paycheck and caring for their child
- reduce instances of sexual assault and domestic violence
- connect survivors of violence to therapists, counselors, and other supports
- ensure all families have a home in Kentucky, no matter their composition
- provide young people with age-appropriate, comprehensive, and inclusive education about sex, sexuality, and relationships



Protesters rallied for reproductive freedom and abortion access in downtown Louisville, September 2021.



ACLU Senior Staff Attorney Alexa Kolbi-Molinas argued at SCOTUS in our case Cameron v. EMW, October 2021.



Grand opening of Black Birth Justice's Postpartum Health Hub in Shively, September 2021.

ACCESSING ABORTION CARE

The best person to make a decision about a pregnancy is the pregnant person themselves. The government should never have the authority to force a person to remain pregnant against their will.

561

BILLS RESTRICTING ABORTION ACCESS

were introduced in state legislatures from Jan. to June 2021. 97 were enacted as of August 2021.

THE REAL EFFECTS:

Everyone needs access to safe and affordable abortion care. Nearly 25% of women have an abortion by 45 years of age, but restrictions affect different Kentuckians in different ways:



PARENTS:

Almost 67% of Kentuckians who obtain an abortion have at least 1 child. Many are single parents burdened by poverty. Nearly 20% of these KY families live in deep poverty, earning 50% or less than the federal poverty line.



RURAL KENTUCKIANS:

There are only two clinics in Kentucky. Getting to the clinics in Louisville is a long drive from Eastern and Western Kentucky. Long distance travel requires additional resources to cover transportation costs, time off work, and childcare.



HEALTH COMPLICATIONS:

Some people who want to be pregnant must end their pregnancy because of health complications. Arbitrary abortion restrictions put politicians between patients and doctors.



SURVIVORS OF VIOLENCE AND ASSAULT:

Pregnant people have an elevated risk of domestic violence. They should be free from interference to make the decisions that are best for themselves.

ABORTION RESTRICTIONS OFTEN FALL INTO THREE CATEGORIES:

- Bans on certain medical procedures
- Bans depending on the patient's reason for seeking abortion care
- Unnecessary regulations that do not improve health outcomes, but make it difficult or impossible for clinics to obtain a license to operate

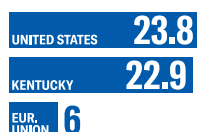


IMPROVING MATERNAL HEALTH

People of color are 3 times more likely to die from complications during or soon after pregnancy than their white peers. Kentucky must implement policies addressing racism in medicine and increasing access to doulas.

THE PROBLEM:

The U.S. has the highest rate of maternal mortality among the world's wealthiest countries. Maternal mortality rates are 3 times higher for people of color and nearly 4 times higher for African-Americans, compared to their white peers.



Maternal mortality rate per 100,000 births.



U.S. maternal mortality rate rose 26% from 2010-14.



Pregnant people of color have 3x the maternal mortality rate.



Black infants are 2x likelier to die before their 1st birthday than non-Hispanic white infants.



Maternal and infant mortality happens to pregnant people of color of all incomes.



Mortality rates are higher for all people of color due to structural racism in healthcare.

THE SOLUTION – MATERNAL CARE ACT:



HOUSE BILL 212

Requires maternal and infant mortality report to include race, income, and geography



Address systemic racism in medicine by requiring anti-racism training for healthcare providers



Allow patients to pay for doula services with Medicaid and cover those services for 12 months post-partum

HOW DOES SYSTEMIC RACISM SHOW UP IN HEALTHCARE?

Systemic racism often shows up as implicit bias. This is an automatic, subconscious feeling or attitude about a certain group of people. It does not come from a place of negative intent, but does result in unequal treatment. Anti-racism training teaches people how to identify these patterns of thinking and change them.

WHAT ARE DOULAS?

Doulas inform and advocate for pregnant people before, during, and after birth. Doulas provide individualized and culturally-specific education about pregnancy and childcare, and ways to reduce stress and promote a healthy pregnancy. They visit patients at home and are present during delivery to ensure patients receive the care they need.

TEXAS ABORTION BAN AND COPYCAT BILLS

Abortion care in Texas is now illegal after 6 weeks of pregnancy – long before most people even know they are pregnant. The law depends on private citizens to sue anyone who seeks care, provides care, or supports a person receiving care (even an Uber driver). This ban is blatantly unconstitutional, but the Supreme Court has entered into a dangerous era for reproductive freedom.

The government should never have the authority to force a person to remain pregnant against their will. Decisions about pregnancy are deeply personal and can be complicated. The best person to make a decision about a pregnancy is the pregnant person themselves – not the government or politicians.

THE REAL CONSEQUENCES:

Bans on abortion care harm the most vulnerable. People with means will always be able to travel elsewhere for care. Bans like this affect different Kentuckians in different ways.



PARENTS:

Almost 67% of Kentuckians who obtain an abortion have at least 1 child. Many are single parents burdened by poverty. Nearly 20% of these KY families live in deep poverty, earning 50% or less than the federal poverty line.



HEALTH COMPLICATIONS:

Some people who want to be pregnant must end their pregnancy because of health complications. Arbitrary abortion restrictions put politicians between patients and doctors.



STATES CANNOT IGNORE CONSTITUTIONAL RIGHTS:

The U.S. Constitution must be upheld in all states. The right to abortion care does not depend on where you live. Kentucky cannot rely on other states to uphold its own people's rights.



RURAL KENTUCKIANS:

There are only two clinics in Kentucky. Getting to the clinics in Louisville is a long drive from Eastern and Western Kentucky. Long distance travel requires additional resources to cover transportation costs, time off work, and childcare.



SURVIVORS OF VIOLENCE AND ASSAULT:

Pregnant people have an elevated risk of domestic violence. They should be free from interference to make the decisions that are best for themselves.



PEOPLE OF COLOR:

Kentuckians of color are already 3 times more likely to have deadly complications during pregnancy. Bans like the one in Texas will exacerbate these issues and cost lives by creating more barriers to care.

Laws like Texas's Senate Bill 8 cost lives, violate the U.S. Constitution, and create chaos in courts. Kentuckians need safe, legal access so they can make the best decisions for themselves without government interference.



SMART JUSTICE

The ACLU of Kentucky works with a number of allies on common sense justice reforms to give Kentuckians a fair chance at getting back on their feet and reducing incarceration rates.

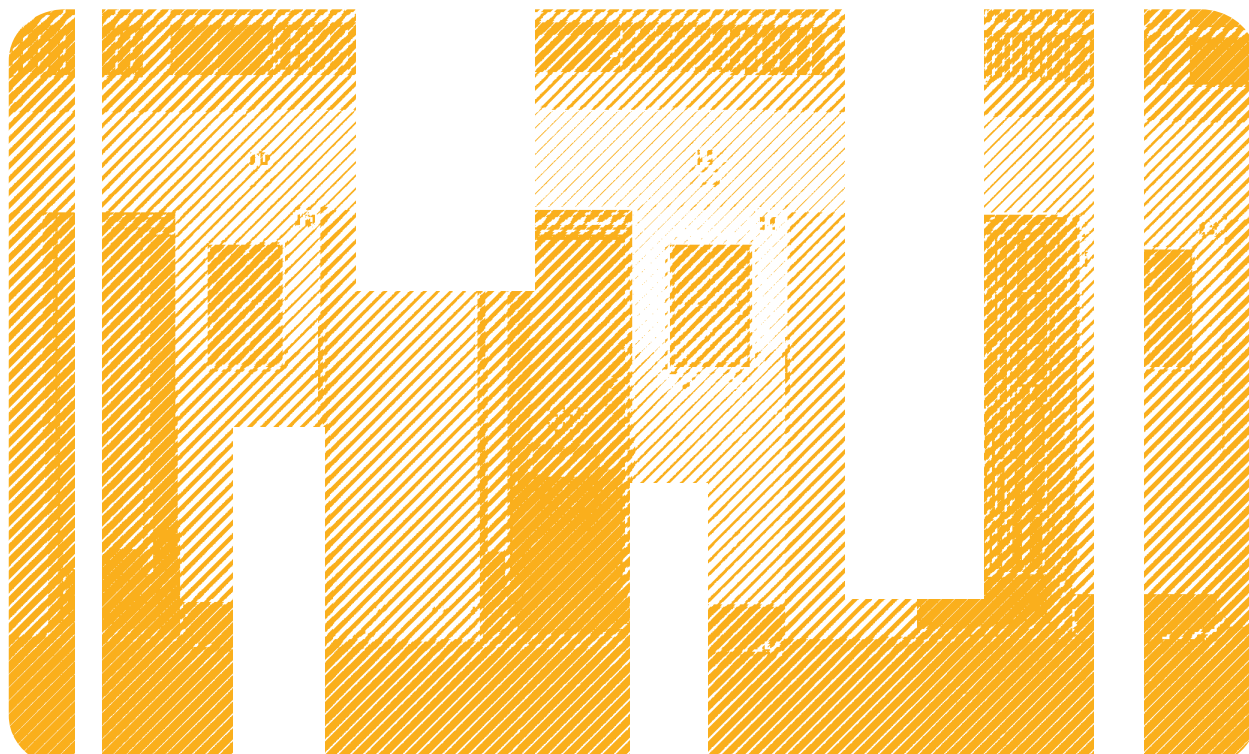
We work closely with the ACLU of Kentucky Smart Justice Advocates (a group of Kentuckians affected by the legal system working to change it), the Kentucky Smart on Crime Coalition, and others.

Kentucky must transform its system so it provides folks with access to the resources they need while still holding them accountable for harm caused – we believe that this is what justice truly looks like.

This includes working to support currently incarcerated people and their families, as well as those who are re-entering their communities after release.

Additionally, it is clear the current system disproportionately harms Kentuckians of color, especially Black Kentuckians, as well as poor Kentuckians, people with disabilities, and people with substance use disorder. We are committed to eliminating these disparities.

Most importantly, we are working to divert people away from being incarcerated in the first place. We are all made safer when Kentucky invests in ensuring all Kentuckians have access to quality education, healthcare, jobs, and opportunities.



ENDING THE DEATH PENALTY:

The ACLU of Kentucky supports full abolition of the death penalty. Until full abolition is achieved, we must stop sentencing people to death who have severe mental disabilities.

Legislation to abolish the death penalty for people with severe mental illness passed the House of Representatives in 2021, and legislation entirely banning this barbaric practice made it further than before.

EXPANDING EXPUNGEMENT:

The ACLU of Kentucky supports updating our laws so more Kentuckians have the opportunity to earn a second chance. Many people face a lifetime of consequences for a small mistake far in their past and long after they have paid their debts and/or served time.

This increases barriers to employment, housing, healthcare, and more. Isolating people from society after release makes it more likely they will wind up in the criminal legal system. All people make mistakes and deserve a fair chance to pay their debts and be full members of their families and communities. It's best for our people, our families, and our local and state economies.

ACCESSING RECOVERY:

Incarceration is not the answer to substance use disorder. Kentuckians deserve – and need – access to community-based treatment. This will reduce the number of incarcerated Kentuckians by giving people a real chance to get the treatment they need, and make our families and communities healthier and safer.

ALTERNATIVES TO INCARCERATION:

Kentucky's incarceration rates are skyrocketing, causing deadly overcrowding in jails and prisons. If Kentucky were a country, it would have the third-highest rate of women's incarceration in the world. Kentucky has the highest rate of children affected by parental incarceration. These rates are higher for people of color, and even worse for Black Kentuckians.

The ACLU of Kentucky supports reforming Kentucky's system of injustice by changing police practices, increasing alternatives to incarceration, improving probation and parole, and strengthening re-entry programs.

SENTENCING ENHANCEMENTS:

The ACLU of Kentucky opposes bills that would increase the number of incarcerated people. The General Assembly frequently passes legislation that defines new crimes and increases the punishments for existing crimes. Decades of these types of bills are partly to blame for deadly overcrowding in Kentucky's jails and prisons.

ELIMINATING OBSTACLES TO TREATMENT

Kentucky is facing a crisis of substance use disorder and incarceration is not the answer.

While Kentucky saw a decrease in overdose deaths in 2018, rates climbed in 2019 and increased a staggering 57% in 2020. These increases have affected families in every single community, but overdose rates among Black Kentuckians have risen even more.

THE EFFECTS OF INCARCERATION OVER TREATMENT:



INCARCERATION:

Addressing this public health crisis with incarceration fuels incarceration rates, especially for Kentuckians of color.



TREATMENT:

There is little to no evidence that incarceration treats substance use disorder. Treatment is effective and less expensive.



FAMILIES:

Kentucky has the highest rate of children living in foster care or with a caregiver other than their biological parent. Treating substance use disorder will keep families healthy and together, and will reduce strain on foster care.



ECONOMIES:

Ignoring the root causes of substance use disorder harms our state and local economies. Senseless incarceration wastes tax dollars and keeps people from accessing the treatment they need to be productive community members.

ADDRESSING THE ROOT CAUSES OF SUBSTANCE USE DISORDER:

IN GOOD COMPANY:

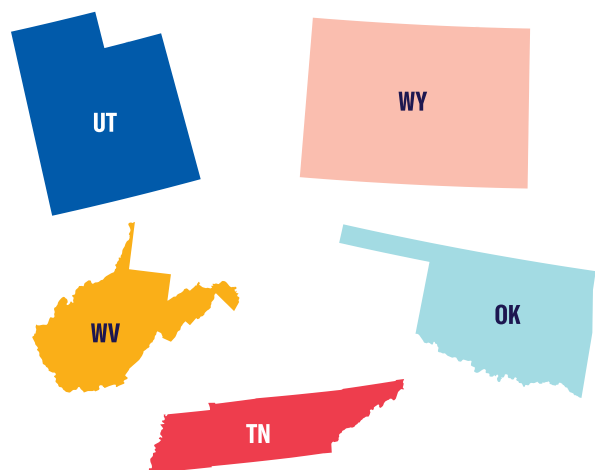
Kentucky should join other states – from across the political spectrum – and treat possession as a misdemeanor.

COMMUNITY-BASED TREATMENT:

People with substance use disorder need access to community-based treatment. They should have the opportunity to seek treatment without the threat or burden of incarceration.

REDUCED INCARCERATION:

Prioritizing treatment will reduce incarceration rates on the front end and in the long term. People who access treatment are less likely to wind up back in the criminal legal system.



Tennessee, Wyoming, Oklahoma, Utah and West Virginia all treat possession as a misdemeanor.

PERSISTENT FELONY OFFENDER LAW

Kentucky's Persistent Felony Offender (PFO) law tips the scales of justice against the people. The PFO law empowers prosecutors to enhance a sentence – or threaten to enhance a sentence – if the accused person has been convicted of any felony offense and has completed their sentence within the past five years or is on probation or parole.

TIPPING THE SCALES OF JUSTICE:

The PFO law tips the scales of justice against the people and in favor of the state.

UNFAIR SENTENCING:

PFO laws give prosecutors immense power to leverage plea agreements that are unfavorable to the accused and overly harsh in response to the alleged offense.

94% of state criminal cases are obtained through plea bargaining. PFO laws push people to enter unfair pleas.

BYPASSING THE JURY:

PFO laws deprive the jury and community of their function to determine guilt and appropriate sentencing.

FUELING MASS INCARCERATION:

PFO laws increase the number of incarcerated people which separates Kentucky families, forces people to live and work in dangerous conditions, and wastes limited tax dollars.

IGNORING THE REAL ISSUES:

The mandatory minimums in PFO laws do not provide an opportunity to meet an individual's needs, such as accessing treatment for mental illness or substance use disorder, to truly rehabilitate people and make Kentucky communities safer, stronger, and healthier.

“One of the worst excesses of Kentucky's tough-on-crime movement is a repeat offender statute...the persistent felony offender (PFO) law clearly heads the list of tough-on-crime measures that have filled prisons and jails beyond capacity, pushed the state's corrections budget off the charts, and changed the balance of power over punishment in ways that threaten the basic fairness of the justice system.”

– Robert G. Lawson, original drafter of Kentucky's penal code and University of Kentucky College of Law professor.



ACLU-KY staff and Smart Justice Advocates joined Savvy Shabazz to submit his application for a pardon, winter 2020.

EDUCATION AND SECOND CHANCES

Everyone deserves the opportunity to seek higher education. Currently, anyone with a felony conviction – whether they are incarcerated or have served their sentence – is banned from utilizing Kentucky Educational Excellence Scholarship (KEES) money.

WHAT IS KEES?

KEES is a scholarship available to Kentucky high school students, home school students, and GED graduates.

KEES is funded by proceeds from the Kentucky Lottery and administered by the Kentucky Higher Education Assistance Authority.

Scholarships are awarded to people who have earned a GPA of 2.5 or higher, score reasonably well on standardized tests, attend a certified Kentucky high school or other qualifying school, and/or earn a GED within five years of turning 18. People can apply to use funds for apprenticeships and qualified workforce training.

EFFECTS OF THE FELONY PROHIBITION:

This prohibition affects hundreds of thousands of Kentuckians and is holding our commonwealth back.

Excluding people with felony convictions makes it harder for them to gain employment, fully invest in their communities, and become productive members of our economy.

More than
300,000
Kentuckians have a past felony conviction.

More than
40,000
Kentuckians are currently on probation or parole.

More than
20,000
Kentuckians are currently incarcerated, including 1,839 under the age of 25.

RACIAL DISPARITIES:

9% of Kentucky's population is Black, yet 22% of those incarcerated are Black. **This prohibition disproportionately sets Black Kentuckians back.**

GENDER DISPARITIES:

Women's incarceration continues to rise. This prohibition is compounding with other factors (i.e. childcare) and making it harder for women to seek education.

Ending this prohibition will open doors for thousands of Kentuckians. Education leads to meaningful employment, self-worth, and will allow formerly incarcerated people to fully reintegrate into their communities, support our economy, and provide for their families.

CLEMENCY AND SECOND CHANCES

Clemency is often the only option for people who have been wrongfully-convicted or given an overly harsh sentence. Everybody makes mistakes, and no person should be permanently judged only by the worst moments of their past.

WHAT IS CLEMENCY?

Clemency is a tool to grant a person relief – by pardon or commutation – from a court-ordered sentence or punishment.

Kentucky's Constitution allows the governor to grant clemency. Limitations in the courts frequently make this the only option to correct a sentencing mistake.

“The fail safe of the judicial system.”

United States Supreme Court
in *Herrera v. Collins*, 1992.

WHY IS CLEMENCY IMPORTANT?

Kentucky over-criminalizes substance use disorder and crimes of poverty. This has ballooned our prison populations, broken families and communities, and weakened our economy.

Thousands of Kentuckians are in need of mental healthcare, but are instead torn from their families and incarcerated.

Over-policing in communities of color has compounded this issue to disproportionately incarcerate people color, especially Black Kentuckians.

Kentucky must preserve the governor's constitutional authority to grant clemency. Clemency is one of very few tools available to correct judicial system failures or give people a second chance.

#3

KY has the 3rd-highest women's incarceration rate.

#2

KY has 2nd-highest rate of children with an incarcerated parent.

2X

Black women are incarcerated at 2x the rate of white women nationally.

300,000

Kentuckians have past felony convictions and cannot vote.

243,000

Kentuckians have completed their entire sentence, probation, and parole.

1 IN 4

African-Americans in Kentucky are denied the right to vote. The highest rate in the country.



Only 8% of Kentuckians are Black, yet Black people make up 22% of Kentucky's incarcerated population.

CLEMENCY AND COVID-19

Across the country, vulnerable communities were hit hardest during the pandemic, and Kentucky is no different. The virus continues to disproportionately impact communities of color, people with low incomes, and incarcerated Kentuckians. Governors across the country took action to reduce the risk of spreading COVID to people living in incarceration and corrections officers, but it's not enough.

WHAT IS CLEMENCY?

Clemency is a tool to grant a person relief – by pardon or commutation – from a court-ordered sentence or punishment.

Kentucky's Constitution allows the Governor to grant clemency.

Thousands of people held pre-trial were released during the pandemic. People held pre-trial are incarcerated only because they cannot afford to post bail. **Money should not determine a person's freedom.**

The emergency releases proved we can release people pre-trial without threatening public safety. According to Kentucky Supreme Court Chief Justice John Minton, the re-arrest rate for defendants released by pretrial services between April 15 and May 31 of 2020 was 4.6 percent, **which was the same re-arrest rate for defendants released by pre-trial services during the same period in 2019.**

CLEMENCY AND THE PANDEMIC:

Clemency reduced crowding and saved lives. Unfortunately, this was not enough.

48

Incarcerated people died from COVID-19 in KY as of Dec. 2021.

8

Corrections employees died from COVID-19 in KY as of Dec. 2021.

2,100

Incarcerated people died from COVID-19 nationwide.

21

Corrections employees died from COVID-19 nationwide.

THE SOLUTION:

- Review more cases and provide more commutations.
- Urge Parole Board to consider parole for some and automatic release for others.
- Provide incarcerated people with resources and support for successful re-entry upon release.

Freedom should not – nor should it ever be – a commodity available to only those who can purchase it. No person should be detained only because they cannot afford to post bail.

JUVENILE JUSTICE

A variety of Kentucky laws treats kids like adults in our justice system. These laws hurt all families, but have a disproportionate impact on Black kids.

Reforms have reduced youth incarceration rates, but racial disparities have drastically increased.

The ACLU of Kentucky supports policies that treat Kentucky kids like kids, and not adults.

Kentucky's young people need access to community programs, trauma-informed counseling, and equitable education.

We need a system that treats kids like kids, not adults.

YOUTH JUSTICE

Kentucky's young people need support and community, not more law enforcement. Nearly 700,000 children were arrested nationwide in 2019. These children face a variety of challenges that require an equally wide variety of community based supportive solutions.

#1

Kentucky leads the nation in rates of child abuse and neglect.

4.4x

Black children are 4.4x more likely to be arrested than their white peers.

#3

If Kentucky were its own country, it would be third for women's incarceration.

#1

Kentucky has more children in foster care or with a non-parent caregiver.

SUPPORTING KENTUCKY KIDS:



VIOLENCE PREVENTION AND INTERVENTION:

Kentucky is number 1 in child abuse and neglect, and instances of community-based violence against youth are rising.

Kentucky needs a statewide comprehensive violence prevention plan that assists families affected by violence, supports victims of gun violence, and provides grant opportunities for grassroots organizations working with communities and families.



PUBLIC HEALTH:

All issues connected to youth justice – from neglect, to youth violence, to parental incarceration – have long term effects on health, wellbeing, and opportunity. We must address the crises facing our children through a public health lens.



RAISE THE AGE:

Children under the age of 13 should not be forced into juvenile court. Kentucky is one of 28 states with no minimum age.

Navigating the legal system is complicated and confusing for people of all ages. Young children should never be expected to do this.

All children make mistakes and deserve a fair chance to correct their harm and change behavior. Children need holistic interventions that include family, school, and community.



POLICE FREE SCHOOLS:

When police enter schools, they do what they are trained to do: detain, handcuff, and arrest. This blanket approach does not meet the individual needs of students.

Nationally, schools are removing police, but Kentucky is moving in the wrong direction.

Students need more licensed social workers and therapists. This will help children navigate life, find a sense of belonging in their communities, and grow into healthy adults.

POLICE FREE SCHOOLS

Kentucky's young people need support from teachers, counselors, therapists, social workers, and their community – not more law enforcement. When police enter schools, they do what they are trained to do: detain, handcuff, and arrest.

THE SCHOOL-TO-PRISON PIPELINE:

Nationally, schools are removing police, but Kentucky is moving in the wrong direction.

A wide body of research shows police in schools increase negative and sometimes dangerous interactions between children and law enforcement.

Interactions occur disproportionately between law enforcement and students of color, students with disabilities, and students from families with low incomes.

This burdens children with the full weight of the criminal legal system simply for misbehaving, and some are even physically, mentally, and emotionally harmed.

Law enforcement is much more likely to arrest students of color and with disabilities, according to data from the U.S. Department of Education.

6–7x

Rate Black girls are arrested compared to white girls in Kentucky in the 2015-16 school year.

2.3x

Rate students with disabilities are arrested compared to all others in Kentucky in the 2015-16 school year.

MORE SUPPORT, LESS LAW ENFORCEMENT:

Students need more licensed social workers and therapists. This will help our children navigate life, find a sense of belonging in their communities, and grow into healthy young adults.

During the 2015-2016 school year, 1.6 million students attended a school with a sworn law enforcement officer and no counselor.



LGBTQ EQUALITY

LGBTQ rights are Kentuckians' rights. When one of our community members is oppressed, it affects us all. We and our partners work together to defend the rights of LGBTQ people to ensure everyone is treated equally under the law and has the rights to live their lives as their true selves.

Bills targeting LGBTQ Kentuckians are usually aimed at kids. For example, bills that prohibit LGBTQ parents from adopting prevent all Kentucky kids from accessing loving homes. Bills that target student athletes are intended to isolate and shame children who are already more vulnerable to self-harm and suicide.

“BATHROOM BILLS”:

Transgender students are the target of renewed attempts to restrict and regulate access to school restrooms and locker rooms.

Lawmakers are pushing these discriminatory bills in the name of privacy and safety. It is already illegal to enter a bathroom or locker room for the purposes of harming someone or invading someone's privacy. All this legislation would do is discriminate against trans and non-binary youth for being who they know themselves to truly be.

WHAT WOULD A BATHROOM BILL DO?

- Force students to use the bathroom based on their biological sex at birth, not their gender identity.
- Allow students to sue their school if it allows their transgender peers to use bathrooms or locker rooms that correspond with their gender identity.

HEALTHCARE DISCRIMINATION AND REFUSAL:

Some lawmakers want politics in your doctor's office. One piece of proposed legislation would make it illegal for parents to seek gender-affirming medical care for their children under the age of 18.



STATEWIDE FAIRNESS:

Fairness laws protect LGBTQ Kentuckians from discrimination in housing, employment, and public accommodation. Some cities in Kentucky have local ordinances offering these protections.

The ACLU of Kentucky supports a statewide Fairness law to protect all LGBTQ Kentuckians from discrimination, no matter where they live.

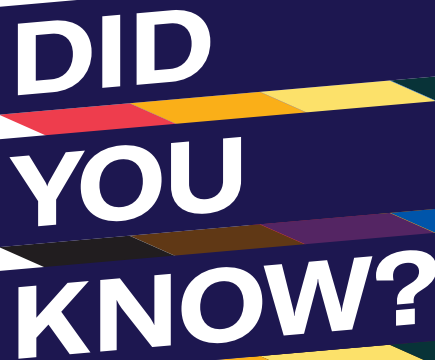
A majority of Kentuckians are now protected by local Fairness ordinances! 23 towns, cities, and counties have passed protections since 1999. Six were in just the last two years as of this writing.

Fairness protections prohibit discrimination against LGBTQ people in housing, employment, and public accommodations. They are an important step in the right direction, but it's time for Kentucky lawmakers to adopt a statewide Fairness law that protects all LGBTQ Kentuckians, no matter where they live.

BANNING CONVERSION TORTURE AGAINST CHILDREN:

Kentucky's LGBTQ youth can be forced into "conversion therapy." This practice seeks to change a person's sexual orientation, gender identity, or gender expression. The American Psychological Association has proven this "therapy" is ineffective and often leads to depression, isolation, substance use disorder, suicidality, and more.

The ACLU of Kentucky supports banning the use of conversion therapy on Kentucky's young people.



**DID
YOU
KNOW?**

LET KIDS PLAY SPORTS

Transgender and non-binary kids are kids. They deserve the same opportunities, inclusion, and community as all other kids. **No child should face discrimination or be excluded simply for being true to themselves.**

17 BILLS ATTACKING LGBTQ PEOPLE

were enacted into law in 2021 nationwide, more than in any other past year.



7 sports exclusion laws



2 laws censoring education



1 healthcare ban

UNCONSTITUTIONAL AND A WASTE OF TAX DOLLARS:

Laws that violate rights, censor speech, and ban healthcare are subject to legal challenges. If the state loses in court, it will foot the bill. **Similar legislation has been blocked in federal court**, including the Arkansas ban on healthcare, the Tennessee “bathroom bill,” and the West Virginia athlete exclusion law.

BLOCKED

CHILDREN NEED SUPPORT AND INCLUSION:

PARTICIPATION CREATES POSITIVE OUTCOMES:

Having the opportunity to participate in sports results in positive outcomes for students — better grades, greater homework completion, higher educational and occupational aspirations, and improved self-esteem.

STUDENTS PARTICIPATE IN SPORTS FOR THE SAME REASONS:

Trans students participate in sports for the same reasons other young people do: to challenge themselves, improve fitness, and be part of a team. Pushing some of our most vulnerable children out of their community tell them the adults in their life do not believe they deserve to live a full life.

EQUAL PROTECTION AND PRIVACY RIGHTS APPLY TO ALL PEOPLE:

Bills that single out and discriminate against transgender students violate state and federal constitutional guarantees of equal protection.

Documenting a child's chromosomes and reproductive anatomy violate their privacy. No child should be forced to undergo a genital exam to prove who they are.

PROFESSIONAL ATHLETES AND ATHLETIC ORGANIZATIONS SUPPORT THE INCLUSION OF TRANS ATHLETES:

The National Women's Law Center, Women's Sports Foundation, Women Leaders in College Sports, and others support inclusive policies.

FREEDOM OF SPEECH

Lawmakers frequently undermine the rights to free speech, protest, and assembly guaranteed by the First Amendment.

Free speech is a core tenet of our work at the ACLU of Kentucky. We work to ensure the government does not condemn Kentuckians for their speech, and to ensure public institutions follow the First Amendment.

It should not be a surprise to anyone that attacks on free speech, as evidenced by the proposed legislation below, often target communities of color, oppressed religious groups, LGBTQ Kentuckians, women, and people with low incomes.

CHURCH AND STATE:

Lawmakers frequently claim they are protecting religious freedom when they are really restricting free speech and indicating state endorsement of specific religious beliefs. Some laws passed in other years using this technique include:

- Religious Freedom Restoration Act
- Mandated display of ‘In God We Trust’ in all public schools
- Bible literacy classes

GOVERNMENT ACCOUNTABILITY:

Lawmakers passed two laws reducing government transparency in 2021. The General Assembly voted to override the governor’s veto of House Bill 312. It makes lawmakers their own referee when it comes to open records requests for their own legislative records by removing the ability of the public to appeal a denial of records to a court. It also requires anyone requesting records to live in Kentucky, undercutting journalists and researchers elsewhere. The governor successfully vetoed House Bill 48, which would have restricted access to public records about public officials — even basic information like proof lawmakers live in the districts they represent.

PROTEST:

Several bills restricting free speech were filed during the 2021 legislative session; however, advocates defeated most of them. Similar legislation enacted in other states has been blocked in court. We stand ready to protect your right to protest.

The most egregious bill from 2021 would have made it illegal to say “insulting” things to law enforcement officers, enhanced penalties for protest-related charges, and made it illegal to camp in public spaces. The camping provision directly targeted racial justice protesters who peacefully occupied Injustice Square in downtown Louisville protesting Breonna Taylor’s murder.

We also defeated legislation that would have allowed the attorney general to personally prosecute people for protest-related charges, even if local prosecutors declined to do so. This was a naked attempt to stifle dissent after Attorney General Daniel Cameron’s failed leadership in the grand jury investigation into Breonna Taylor’s death.

Lawmakers should be accountable to the people, not themselves.

CLASSROOM CENSORSHIP

We have been fighting government censorship since our inception, and many of these fights take place in the classroom. Censorship is the suppression of words, images, or ideas that are deemed “offensive,” and happens whenever people succeed in imposing their personal views on others.

Government censorship is unconstitutional. In 1969, the US Supreme Court ruled 7-2 in the ACLU’s case *Tinker v. Des Moines Independent Community School District* that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

HIDING THE TRUTH:

A NON-EXISTENT ISSUE:

Bills seeking to ban “divisive concepts” are a solution without a problem.

WASTE OF TAX DOLLARS:

Bills that prohibit discussions on “race, sex, religion, creed, nonviolent political affiliation, social class, or class of people” are striking examples of government censorship and could be subject to a legal challenge. If the state loses in court, it will have to foot the bill.

REWRITING HISTORY:

The real problem these types of legislation present are:

- Whitewashing history
- Perpetuating white supremacy
- Denying educators and students the right to free speech

Teachers need more resources and students need access to counselors, after-school programming, and therapists. **Vote no on classroom censorship and work on the real issues facing Kentucky's teachers and students.**

Knowing the full truth about history should be uncomfortable. There is a lot of good in America’s history, but there are also the ugly facts of slavery, white supremacy, sexism, homophobia, economic oppression, and more.

From slavery to worker exploitation, Kentucky has its own complicated history that we must understand to create a better future. In Kentucky alone, at least 169 Black people were lynched. Fulton County had one of the highest rates of lynchings in the entire south. In 1865, Kentucky refused to ratify the Thirteenth Amendment abolishing slavery and continued to refuse until 1976. In the early 20th century, at least five people died in “Bloody Harlan,” when coal miners fought coal operators and law enforcement to get decent wages. These examples are a tiny fraction of our history and should be on the table for discussions in classrooms.

“The American people have this to learn: that where ~~justice is denied~~, where ~~poverty is enforced~~, where ~~ignorance prevails~~, and where any ~~one class is made to feel that~~ society is an organized ~~conspiracy to~~ oppress, rob, and ~~degrade them~~, ~~neither person nor~~ property is safe.”

– Frederick Douglass

1886 speech on the 24th anniversary of ~~Emancipation~~, Washington, D.C.

STOP S.L.A.P.P. SUITS

Strategic Lawsuits Against Public Participation (SLAPP suits) are frivolous lawsuits intended to punish speech protected by the First Amendment.

A SLAPP isn't meant to be won; it's just meant to be so ruinously expensive and time-consuming to defend that the victim agrees to self-censor if the suit is dropped. SLAPPs are one of the many ways powerful figures and institutions use the legal system to punish critics, silence journalists and whistle blowers, and stifle the flow of information and opinions protected by the First

THE PROBLEM:

SOCIAL MEDIA:

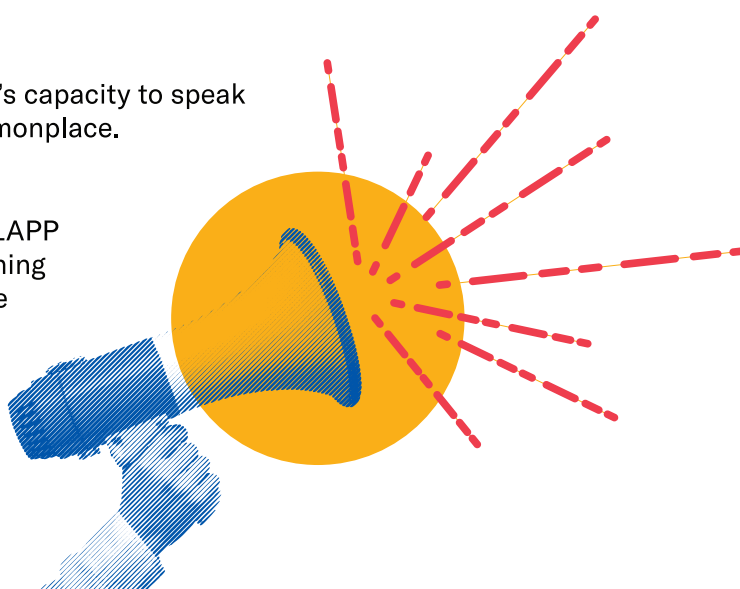
As social media has amplified the public's capacity to speak truth to power, SLAPPs have grown commonplace.

FALLING BEHIND:

Most states have some version of anti-SLAPP legislation; Kentucky is one of the remaining states without any anti-SLAPP law on the books.

BURDENING COURTS:

Several SLAPP suits have been filed in Kentucky in recent years, further clogging an already overburdened court system.

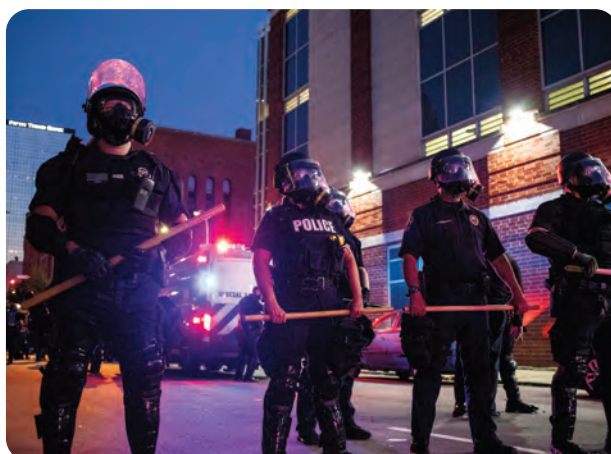


THE SOLUTION:

Kentucky lawmakers should establish more common-sense protections for free speech by adopting anti-SLAPP laws **allowing courts to quickly dismiss SLAPPs**. It should allow defendants to collect attorney's fees from the plaintiff if the suit is dismissed.

RACIAL JUSTICE

All the work the ACLU of Kentucky does is focused through a lens of racial justice. We recognize that we exist in a culture of white supremacy, and we work to dismantle the systems and policies that uphold that culture. All of this work is aimed at dismantling white supremacy and the disproportionate negative impact on the lives of Black and Brown Kentuckians.

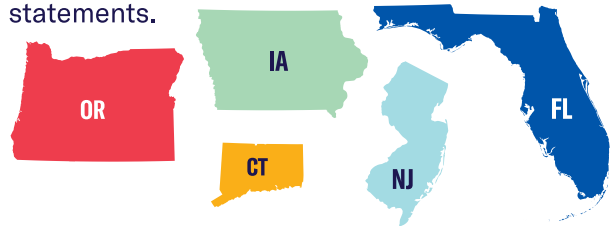


RACIAL IMPACT STATEMENTS

Racial impact statements give policymakers an opportunity to modify legislation that would worsen existing racial disparities before adoption and implementation. Black, Indigenous, and people of color (BIPOC) have borne the heaviest burden of the negative effects of certain policies throughout U.S. history, whether intended or accidental.

Racial impact statement would provide policymakers with the necessary tools to fully understand the potential impacts of proposed legislation on communities of color. This would allow policymakers to repair past harms and ensure all Kentuckians have access to an equitable future.

IN GOOD COMPANY: 5 states across the political spectrum have adopted racial impact statements.



HOW DO THEY WORK?

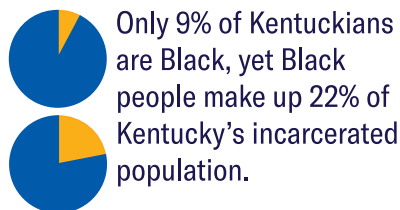
Racial impact statements function similarly to fiscal notes. In this case, they help lawmakers evaluate the potential unintended effects of proposed policies that could worsen racial disparities before adoption and implementation.

Practically speaking, it is easier to understand a policy's unintended consequences before adoption because it is more difficult to modify policy after implementation.

WHY KENTUCKY NEEDS THEM:

Kentuckians of color have already been failed by many existing policies. We must ensure future policies reverse this trend.

#1 Kentucky has the highest rate of felony disenfranchisement among African-Americans in the U.S.



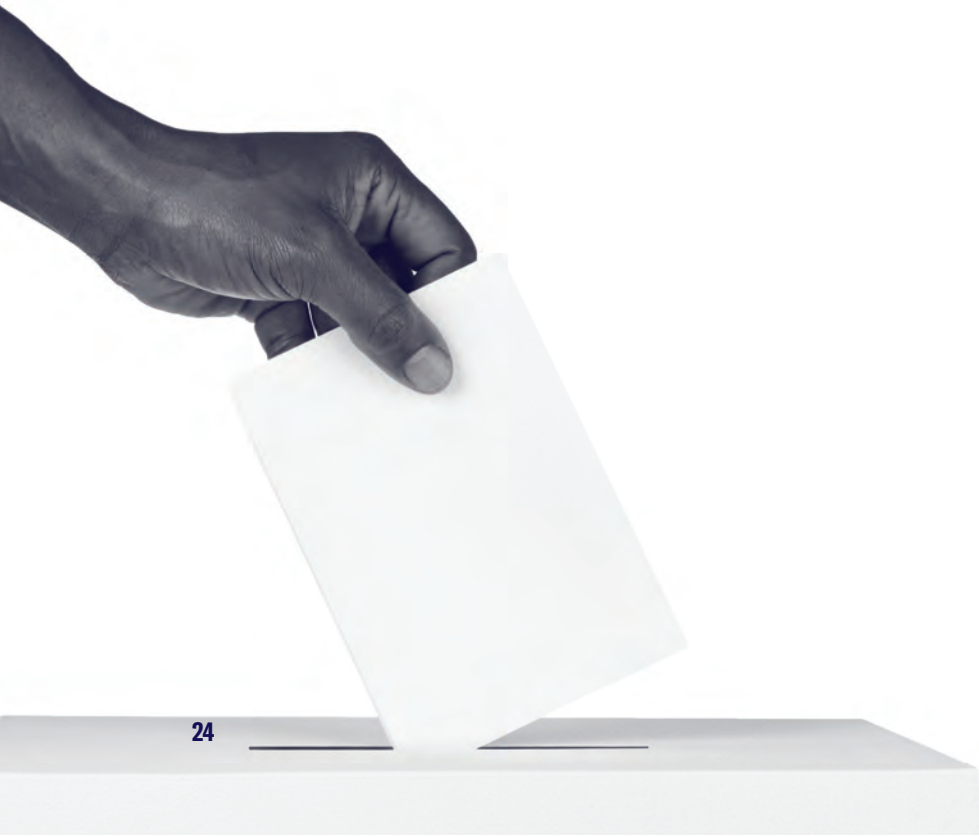
WAR ON DRUGS The failed war on drugs continues to fail Black Kentuckians. Black overdose rates are up, but Black people are less likely to be prescribed life-saving medications.

VOTING RIGHTS

The right to vote is fundamental to our democracy. We work to ensure Kentuckians are able to exercise their right to vote and to restore voting rights to Kentuckians with past felony convictions. This year, we will be paying close attention to redistricting, reviewing state and congressional maps to identify any inequities, particularly those related to race.

THE VOTE IS PRECIOUS.
It is the most powerful
non-violent tool we have
in a democracy.

– Congressman John Robert Lewis (1940–2020)



RESTORATION OF VOTING RIGHTS

Kentucky is 1 of only 3 states that still denies voting rights to people with felony convictions in their past. The only way to restore rights is through a pardon granted by the governor or expungement. This leaves Kentucky on the fringe, with one of the harshest voting restrictions in the country.

1 in 4 African-Americans in Kentucky are denied the right to vote.
The highest rate in the country.

Denying someone the right to vote harms families and communities:

ISOLATION: Disenfranchisement isolates people from their communities.

POWER: Denying one person the right to vote ripples out and dramatically decreases the political power of urban and minority communities.

RECIDIVISM: 27% of non-voters were rearrested, compared with 12% of voters.

300,000

Kentuckians have past felony convictions and are not allowed to participate in our democracy.

243,000

Kentuckians have completed their entire sentence, probation, and parole.

1 in 11

Kentuckians are denied the right to vote due to a past felony conviction.

THE SOLUTION – VOTING RIGHTS RESTORATION CONSTITUTIONAL AMENDMENT:

A proposed amendment to the Kentucky Constitution would give voters the chance to automatically and permanently restore voting rights to people who have completed their entire sentence, probation, and parole. Restoration would not apply to people convicted of election fraud, bribery related to an election, or treason.



BROAD SUPPORT:

According to a 2021 poll, 67% of Kentuckians support automatic restoration for people who have completed their sentence. Support cuts across age, gender, and political affiliation.



CORNERSTONE OF DEMOCRACY:

Voting is the most fundamental right in a democracy. We all make mistakes, and no person should be defined entirely by the worst moments of our past.

IMMIGRANTS' RIGHTS

Families belong together and all people in Kentucky should feel safe living in their communities, regardless of their skin color or country of origin.

The protections provided to Kentuckians by the U.S. Constitution are granted to all people, not only those with the privilege of citizenship. We are committed to ensuring all Kentuckians are protected from government abuse and discrimination, no matter where they may have been born.

FAMILIES BELONG TOGETHER:

In recent years, the General Assembly has considered legislation that would force local law enforcement agencies and almost all public employees to “support the enforcement of federal immigration law.” We expect similar legislation to return this year.

These bills would increase racial profiling and put our fellow Kentuckians at greater risk for deportation. It would also interfere with students’ educations, separate Kentucky families, and stress our already weak foster care system.

These family separation bills would also imperil county budgets. Forcing local law enforcement agencies to enforce federal immigration laws exposes them to lawsuits in cases of constitutional violations.

WHAT WOULD A FAMILY SEPARATION BILL DO?

- Force almost all public employees – from staff at domestic violence shelters to hospital employees – to engage in federal immigration law enforcement.
- Deny college admission to students without proper documentation. Some are seeking to also deny admission to DREAMers, or DACA recipients.
- Allow all constitutional officers to formally challenge people or agencies they believe are not enforcing the law.
- Create a system of fear, intimidation, and racial profiling against Kentuckians of color.
- Imperil county budgets by exposing them to costly lawsuits.



RESOURCES

FOLLOW US:

Stay up-to-date with the latest news from the General Assembly and see how you can get involved.



TAKE ACTION:

Visit [ACLU-KY.org](https://aclu-ky.org) to sign up for email action alerts, send a message to your legislators, and view the calendar of events.

ACCESSING THE CAPITOL:

All visitors must go through security. Be prepared to present a photo I.D.

700 Capitol Avenue, Frankfort, KY 40601

SUPPORT OUR WORK:

Become a member:

You can become a card-carrying member of the ACLU for just \$5. Memberships are not tax-deductible and support our non-partisan legislative work funded by our 501(c)4.

Make a tax-deductible gift:

Donations are tax-deductible and support a wide variety of legal and organizational work funded by our 501(c)3. Donations do not make you a member of the ACLU of Kentucky.

Become a member or donate at [ACLU-KY.org/Act](https://aclu-ky.org/Act)

HOW TO VOTE:

All eligible voters must register by the voter registration deadlines to cast a ballot.

PRIMARY ELECTION

Election Day: May 17, 2022

Registration deadline: April 18, 2022

GENERAL ELECTION

Election Day: November 8, 2022

Registration deadline: October 10, 2022

GoVoteKY.com

Visit GoVoteKY.com to:

- register to vote
- see where to vote
- view a sample ballot

VOTING RIGHTS RESTORATION

Do you have a past felony conviction?

Visit [ACLU-KY.org/ROVR](https://aclu-ky.org/ROVR) to see what you need to do to vote in the next election.

SEE WHO REPRESENTS YOU:

LOCAL OFFICIALS

Visit Kentucky.gov/Government/Pages/Local

STATE OFFICIALS

Visit LRC.KY.gov

IMAGE CREDITS

Images listed in order of appearance. Unless noted otherwise, all graphics and modified photos were created with licensed content by Samuel Crankshaw, ACLU of Kentucky Foundation, Inc.

1. Cover art by Samuel Crankshaw, ACLU of Kentucky Foundation, Inc., with licensed photos.
2. Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. Abortion rights protest in downtown Louisville, September 2021. (Page 2)
3. Michelle Frankfurter, MichelleFrankfurter.com. ACLU Reproductive Freedom Project Senior Staff Attorneys Alexa Kolbi-Molinas and Andrew Beck before oral arguments at the Supreme Court of the United States in ACLU of Kentucky case *Cameron v. EMW*, October 12, 2021. (Page 2)
4. Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. Grand opening of Black Birth Justice's Postpartum Health Hub in Shively, in Louisville, KY, September 2021. (Page 2)
5. Molly Kaplan, ACLU. National day of action to "stop the bans," New York City, October 2019. (Page 3)
6. Molly Kaplan, ACLU. National day of action to "stop the bans," New York City, October 2019. (Page 5)
7. Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. ACLU of Kentucky staff and Smart Justice Advocates joined Savvy Shabazz to submit his application for pardon to Governor Beshear, Winter 2020. (Page 9)
8. Getty Images / iStockPhoto. Licensed and modified by Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. (Page 13)
9. ACLU, photo from cover of "Cops and No Counselors" report. <https://www.aclu.org/report/cops-and-no-counselors>. (Page 15)
10. ACLU supporter. Dog at intersection of North Limestone and East Short Street in Lexington, KY, Summer 2021. (Page 16)
11. Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. Racial justice protests in Louisville, KY, May 2020. (All photos, page 22)
12. Getty Images / iStockPhoto. Licensed and modified by Samuel Crankshaw, ACLU of Kentucky Foundation, Inc. (Page 24)

**WE THE PEOPLE
DARE TO CREATE A
MORE PERFECT UNION.**

ACLU-KY.org
@ACLUofKY



*Created December 2021
for the 2022 legislative session*

ACLU Kentucky