



**THE ACLU OF KENTUCKY**

# **2019 LEGISLATIVE AGENDA**

**OUR PRIORITIES AND GOALS FOR FRANKFORT**

**ACLU**  
Kentucky

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## HOW TO USE THIS GUIDE

The American Civil Liberties Union (ACLU) is freedom's watchdog, working daily in courts, legislatures, and communities to defend the individual rights and liberties guaranteed to all people by the Constitutions of the United States and the Commonwealth of Kentucky.

It is every Kentuckian's responsibility to be engaged with the civic process. This guide is a toolkit to make engaging with elected officials accessible and to demystify the legislative process.

We work to propose new bills, make bills better, and defeat harmful legislating. We do this by calling, writing, and meeting with our representatives and senators as well as by changing the public narrative through letters to the editor and social media.

# 2019 LEGISLATIVE PRIORITIES

FOR THE UPCOMING 2019 LEGISLATIVE SESSION, THE  
ACLU OF KENTUCKY HAS TWO MAIN LEGISLATIVE  
PRIORITIES: **BAIL REFORM** AND **EXPANDING  
ACCOMMODATIONS FOR PREGNANT KENTUCKIANS.**



# BAIL REFORM

## WHAT IS MONEY BAIL?

Money bail is the practice of judges issuing bond amounts to individuals facing criminal charges. If the person presumed innocent can pay, they are released. If not, they remain in jail until their court date – which can be days, weeks, months, or even years away.

Pretrial detention ruins lives and puts people in a place where they are more likely — regardless of guilt or innocence — to take a plea deal.

## THE SITUATION IN KENTUCKY

Kentuckians that live in poverty are disproportionately impacted by money bail while wealthy Kentuckians are able to pay the fees necessary to buy their freedom.

Kentucky has one of the fastest-growing prison populations in the US. We incarcerate more women than almost any other state in the nation and we rank second place for the number of kids impacted by having a parent who is, or has been, incarcerated. Moreover, while black Kentuckians comprise only 8% of our state's population, they make up 22% of our prisons.

**This is a crisis.**

## WE BELIEVE:

Neither wealth nor poverty should be a factor in determining justice. We believe in the Constitution and its provisions for presumption of innocence. Kentucky is already well positioned to amend our pre-trial detention policies because, firstly, we are one of only two states that have eliminated bail bondsmen and, secondly, because we have already established a robust system of pre-trial services.



**BAIL REFORM IS  
ESSENTIAL TO  
ENDING MASS  
INCARCERATION.**

## FOR 2019:

We are currently working with our allies and other stakeholders on moving a bail reform bill forward. While there has been increasing political will around the broader concept of justice reform, our membership and supporters must engage on this issue to ensure that the right bill with the strongest language will pass.



**NOW IS THE  
TIME FOR  
BAIL REFORM.**



# EXPANDING ACCOMMODATIONS FOR PREGNANT KENTUCKIANS

## WHAT IS THE PREGNANT WORKERS ACT?

The Pregnant Workers Act would ensure reasonable accommodations for people in the workplace who are expecting. The incorporation of more breaks and light duty in a physically-demanding workplace can better ensure Kentuckians will not have to choose between a healthy pregnancy or a job. The inclusion of reasonable accommodations for new parents, such as creating a private space for expressing breast milk, will improve the health of both the mother and child. Moreover, the Pregnant Workers Act cultivates a more inclusive workplace environment by prohibiting discrimination on the basis of pregnancy, childbirth, and related medical conditions.

## THE SITUATION IN KENTUCKY

Kentucky presently does not ensure reasonable accommodations for pregnant women in the workforce. As one result, the Commonwealth ranks 48th in the country for female labor force participation. To strengthen our economy, we must ensure that no person will have to choose between a healthy pregnancy and a job.

## WE BELIEVE:

Rights related to pregnancy are an important part of our Reproductive Freedom work, which is why passing the Pregnant Workers Act is a priority for the 2019 legislative session.

**NO KENTUCKIAN  
SHOULD HAVE  
TO CHOOSE  
BETWEEN A  
HEALTHY  
PREGNANCY  
AND A JOB.**

## FOR 2019:

Lexington Senator Alice Forgy Kerr filed the Pregnant Workers bill in 2018, where it passed out of Senate Judiciary Committee with unanimous support but failed to move to the full Senate for a vote. 23 other states — as well as a number of cities — offer these modest accommodations to pregnant workers. We are working to make Kentucky 24<sup>th</sup>.

**NOW IS THE TIME TO  
EXPAND  
ACCOMMODATIONS  
FOR PREGNANT  
KENTUCKIANS.**

# 2019 LEGISLATIVE GOALS

THE ACLU OF KENTUCKY HAS A SUBSTANTIVE INTEREST IN ADVANCING THESE BILLS LEADING UP TO, DURING, AND AFTER THE 2019 LEGISLATIVE SESSION.

**WE WILL LAY THE GROUNDWORK FOR SUCCESS IN FUTURE SESSIONS** BY EDUCATING LAWMAKERS AND SOLICITING FEEDBACK FROM COMMUNITY MEMBERS AND ALLY ORGANIZATIONS.

# CIVIL RIGHTS ISSUES

## ENDING THE DEATH PENALTY

Kentucky's Death Penalty system is broken with an error rate of more than 60% at the trial court level. In addition, despite constitutional protections, death sentences are given to people with mental illness or mental disabilities.

**The ACLU of Kentucky supports full abolition of the death penalty and ending the use of the death penalty in cases of severe mental illness.**

To achieve this goal, we will work to move a bill that stalled last year that would end the use of the death penalty in cases of severe mental illness. We will continue to connect lawmakers to Kentuckians impacted by the death penalty as well as constituent abolitionists.

## RESTORATION OF VOTING RIGHTS

Kentucky is one of only three states that permanently bars all individuals with felony convictions from ever voting. While this law hurts all Kentuckians, it disproportionately harms Kentuckians of color. As such, 1 in 4 black Kentuckians can't vote. The only way to restore voting rights to individuals with felonies is through a partial pardon from the governor or, for Kentuckians that are eligible, to have their felony expunged.

**The ACLU of Kentucky supports amending our constitution so that all Kentuckians who have completed their sentence can have their voting rights automatically restored.**

We are working with allies to regroup the Restoration of Voting Rights Coalition. Additionally, our weekly Smart on Crime mini lobby day always includes a stop at Secretary of State's office to obtain the applications for restoration of voting rights for those who need it.

*For many of the politicians, I was the first DACA recipient they've spoken to. For once they put a face on the issue.*

“

**Omar Salinas-Chacón**  
Advocate

## STATEWIDE FAIRNESS | BANNING CONVERSION THERAPY

Without codified anti-discrimination protections for members of the LGBTQ community, tens of thousands of Kentuckians may lose their job or be denied housing and public accommodations for who they are or who they love. Moreover, LGBTQ youth are being targeted for dangerous “conversion/reparative” therapy.

**The ACLU of Kentucky supports both statewide anti-discrimination “Fairness” protections and a ban on the use of conversion therapy.**


We will work with allies to build a broader base of co-sponsors for statewide “Fairness” and a ban on the use of conversion therapy. Show up and support LGBTQ rights at our rally day at the Capitol on February 26<sup>th</sup>!

## RACIAL IMPACT STATEMENTS

Many laws, even those that may appear neutral on their face, have disparate impacts on black and brown Kentuckians.

**The ACLU of Kentucky supports passing a bill that would require racial impact statements that use high-quality data analysis to forecast the potential disparate impacts of proposed legislation on Kentuckians of color.**

We will work to advance legislation and educate lawmakers on the relationship between laws and the oppression of black and brown Kentuckians with our exhibit exploring the history of slavery to mass incarceration. This exhibit will be displayed in the Capitol Annex hallway from March 11<sup>th</sup> – 15<sup>th</sup> and it will be open to the public.



*In order for us to move Kentucky forward, we must reform our justice system.*

“

**Amanda Hall**  
**ACLU Smart Justice Field Organizer**

## EXPANDING EXPUNGEMENT

Kentucky's recently-expanded felony expungement law is very limited in scope. Only certain types of felonies may be expunged and there is a lengthy waiting period and hefty filing fee (\$500, the second highest in the country).

The ACLU of Kentucky supports updating our laws so more Kentuckians have the opportunity to earn a second chance.

To achieve this goal, we will educate lawmakers on how many Kentuckians cannot access expungement and promote legislation to ensure all Kentuckians can have a second chance.

## ACCESS TO RECOVERY SERVICES

When a Kentuckian with substance use disorder is attempting to access treatment, time is of the essence and bureaucratic delays may become life-threatening.

The ACLU of Kentucky supports removing barriers of prior authorization. Prior authorization serves as a bureaucratic wall to access to treatment. Not only can this save lives, but it is also an important part of reducing the number of Kentuckians who are forced to rely on prison and jails to address their substance use disorder.

We will support our allies and others who are leading this important effort and we will work to support their strategy around this lifesaving legislation.

# JUSTICE REFORM

## ALTERNATIVES TO INCARCERATION

Kentucky is number two in the nation for the number of women incarcerated and the number of children impacted by having a parent incarcerated. Kentuckians of color are far more likely to face incarceration than their white counterparts.

The ACLU of Kentucky supports systemic change to address mass incarceration, including changes to police practices, increasing alternatives to incarceration, improving opportunities for effective supervision, and stronger re-entry programs.

We can address some of these problems by increasing the felony theft threshold, re-classifying drug offenses, and giving folks a chance to get back on their feet before imposing financial obligations on Kentuckians returning to their communities.

## JUVENILE JUSTICE

There has been dramatic advancements in keeping Kentucky kids out of detention centers, but, unfortunately, the existing racial disparities in our system have become far more pronounced.

The ACLU of Kentucky supports both advancing legislation that will track racial disparities in the juvenile justice system and updating existing laws to more effectively engage stakeholders to provide alternatives to incarceration and reduce racial disparities.

We will work with and support children's advocacy groups and legislators who champion rights for Kentucky's most vulnerable in hopes of creating a more just future for the Commonwealth.



# 2019 DEFENSIVE ISSUES

MEMBERS OF THE KENTUCKY GENERAL ASSEMBLY FILE HUNDREDS OF BILLS EACH YEAR AND THE MAJORITY OF THOSE BILLS DIE.

THE ACLU OF KENTUCKY BELIEVES THAT THE FOLLOWING BILLS OR BILLS RELATED TO THESE AREAS OF INTEREST WILL BE FILED IN THE 2019 LEGISLATIVE SESSION. **THE ACLU OF KENTUCKY IS COMMITTED TO STOPPING THESE BILLS FROM BECOMING LAW.**

# DEFENSIVE ISSUES: PART ONE

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## ATTACKS ON THE FIRST AMENDMENT



The Kentucky General Assembly has a long history of working to undermine protections enumerated in the First Amendment, particularly surrounding religious liberty. In recent years, we have seen legislation like the Religious Freedom Restoration Act, Religious Refusals, and proposals like the Bible Literacy bill that erode the line between church and state. A number of bills are on our radar for the 2019 legislative session, including a bill that would require schools to display the national motto “In God We Trust” in all of Kentucky’s public schools.

## THREATS TO IMMIGRANTS’ RIGHTS

Representatives continue to file the same anti-immigrant bill session after session. While the measure has not garnered a lot of support in terms of co-sponsors or actually received a hearing, it is still a serious threat to all Kentuckians regardless of immigration status. The bill is designed to push Kentuckians without up-to-date papers out of school and out of work. Worst of all, this bill makes people who are already in a vulnerable position — even when they have been witnesses to or victims of crime — increasingly fearful of interacting with law enforcement.



## RESTRICTIONS ON ABORTION ACCESS



Year after year, Kentucky lawmakers further restrict access to safe abortion. Kentucky has already passed many restrictions that other states are only now considering due to major shifts on the US Supreme Court and in Federal Courts around the country. Most new restrictions on abortion fall into three categories: bans on certain methods (like dilation and evacuation), eliminating access to abortion for certain reasons (like a particular prenatal diagnosis) or TRAP (targeted restrictions on abortion providers) laws. While there is increased pressure from opponents of access to safe abortion to overturn *Roe v. Wade*, our national ACLU experts believe that in the immediate future we are more likely to see further restrictions on access.

## ATTACKS ON LGBTQ KENTUCKIANS

While many Kentucky communities have advanced policies to expand basic civil rights protections to include LGBTQ Kentuckians (ten Kentucky cities have Fairness Ordinances in place!), the LGBTQ community remains under attack, especially in our state capitol. No anti-LGBTQ bills have been pre-filed, but we are on the lookout for bills, especially those that wrongly use “religious liberty” to discriminate and those that target Trans Kentuckians. We have also seen other states moved on bills to prohibit LGBTQ families from adopting children. Hopefully, Kentucky will not consider this type of legislation, especially because Kentucky leads the nation in the number of kids living outside their home or with relatives.



# DEFENSIVE ISSUES: PART TWO



## VOTER ID & ELECTIONS

Without early voting or same day registration, Kentuckians already have limited access to the ballot box. We remain on the look out for any further restrictions including bills that increase requirements in terms of providing identification to vote.

## SENTENCING ENHANCEMENTS

Year after year, the Kentucky General Assembly moves forward bills that increase that creates new crimes and puts in place lengthier sentences for existing crimes. Decades of these types of bills are substantively to blame for our mass incarceration crisis and specifically, how Kentucky wound up with one of the fastest growing prison populations in the country. Even if we are successful with reforms, all gains will be lost if this trend continues.



## RACIAL DISPARITIES / SCHOOL RESOURCE OFFICERS



In recent years, we have been witness to legislation that unfairly forgets black and brown Kentuckians. One area we are closely monitoring is the potential for increased use of law enforcement in Kentucky schools. A group of lawmakers and community stakeholders have come together as the school safety working group to explore ideas to enhance safety in schools. One of the ideas that dominates these discussions is the increased use of School Resource Officers (i.e. police officers) in schools. There is much data that shows that SROs play an important role in facilitating the school-to-prison pipeline and that they disproportionately impact black and brown students.



## RESOURCES

### ACLU OF KENTUCKY

[aclu-ky.org](http://aclu-ky.org)

### HOW TO LOOK UP YOUR LAWMAKERS

[lrc.ky.gov](http://lrc.ky.gov)

### LOCATE CITY AND COUNTY OFFICIALS

[kentucky.gov/government/  
Pages/local.aspx](http://kentucky.gov/government/Pages/local.aspx)

### WHERE TO VOTE

<https://vrsws.sos.ky.gov/vic/>

### ACCESSING THE CAPITOL

700 Capital Ave, Frankfort, KY 40601

*Be prepared to pass through security when  
entering the Capitol; you will need a photo ID*

### ACLU OF KENTUCKY SOCIAL MEDIA

Facebook: ACLU of Kentucky  
Twitter: @ACLUofKY

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