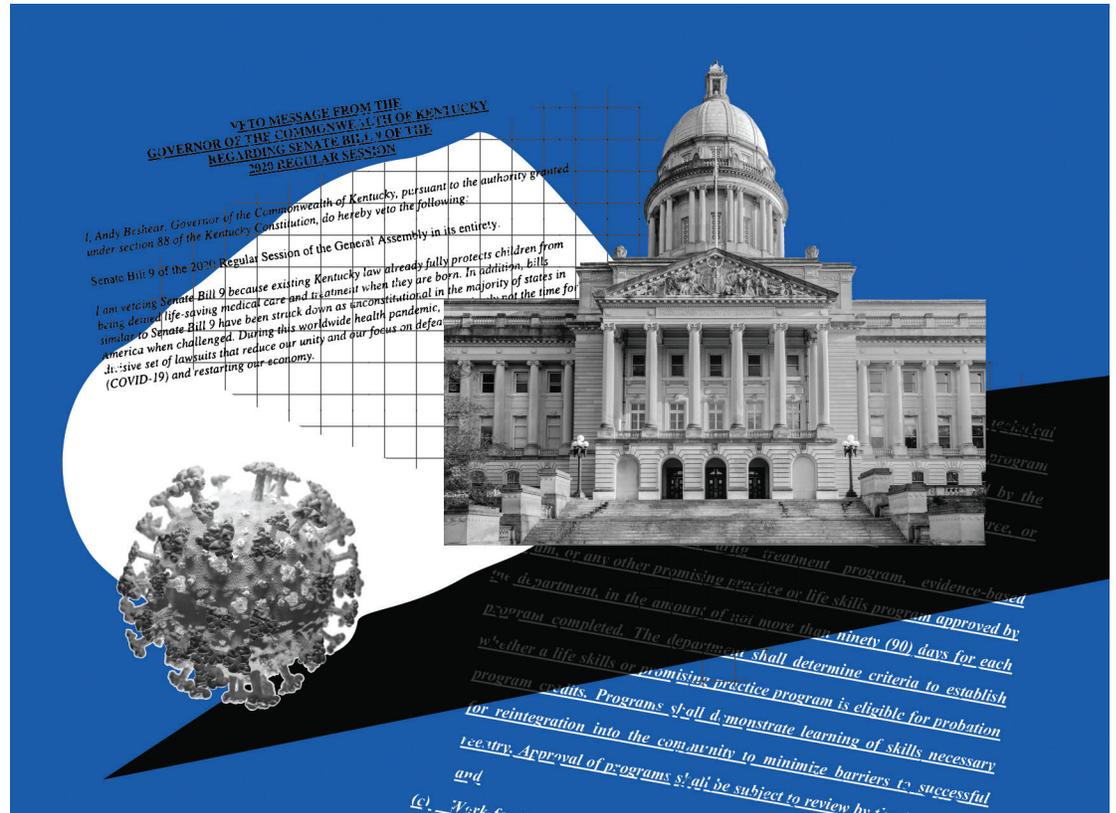




THE TORCH

Spring 2020 Newsletter of the American Civil Liberties Union of Kentucky



COVID-19 AND CIVIL LIBERTIES

The coronavirus pandemic has upended daily life and imperiled the health and financial security of thousands of Kentuckians, and we've been working harder than ever to continue defending the civil rights and liberties of everyone in our commonwealth.

We know this is an incredibly difficult time for the people and communities we serve – but this work is too important to give up or give in. Together, by fiercely defending the values we share, we can emerge from this crisis as a stronger and more just society, in which “We the People” truly means everyone.

We have focused our attention on three key areas during this crisis:

PRISONS AND JAILS

Kentucky's overcrowded prisons and jails have the potential to become hot spots of COVID-19 infections, threatening the health of incarcerated people, corrections employees, and their broader communities. Some Kentuckians remain incarcerated simply because they cannot afford to pay bail or because they do not have proper immigration documentation. As of May 4, 2020, two Kentuckians incarcerated at the Green River Correctional Complex already lost their

ACLU
Kentucky

lives to this disease. While some facilities have heeded the advice of public health experts and reduced their incarcerated populations, most releases are too slow and few in number to make a real impact. We continue to call on Governor Beshear, the Department of Corrections, ICE officials, local jailers, prosecutors, judges, and those in charge of youth facilities to act boldly and swiftly. Detention should not be a death sentence.

VOTING RIGHTS

VICTORY! The State Board of Elections voted to provide free return postage for all mail-in ballots. All voters can vote by mail in the June 23 primary if they request a ballot. No person should have to choose between their health and their right to vote. We worked closely with officials on this issue, and are happy the Board, Secretary of State Michael G. Adams, and Governor Andy Beshear came together to adopt

most of our recommendations. We will continue to monitor their implementation plans and engage them in a productive dialogue.

ABORTION ACCESS

Abortion is essential, time-sensitive healthcare. We're staying vigilant for attempts by anti-abortion politicians to use this crisis to infringe on reproductive freedom or curtail abortion access. The national ACLU has already blocked politicians in Alabama and Ohio from using the guise of the COVID-19 crisis to prevent people from obtaining abortion care, and we are committed to preserving abortion access for all Kentuckians.

Track our COVID-19-related work at [ACLU-KY.org/COVID19](https://aclu-ky.org/COVID19). Thank you, as always, for your unwavering support for our work and the fundamental rights our Constitution guarantees to all of us.

The ACLU is working nationwide to ensure the burdens of the public health crisis and the government's actions do not unfairly fall on our most vulnerable communities. Here's a look at the ACLU's collective impact.

MORE THAN

90

Legal actions filed

filed since the start of the outbreak

20,000

People released from jails and prisons

or never brought into the criminal legal system in the first place

90

Clients released

from ICE detention

Visit [ACLU-KY.org/COVID19](https://aclu-ky.org/COVID19) to track what the ACLU is fighting for in Kentucky and nationwide.

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THE 2020 GENERAL ASSEMBLY

A historic Kentucky General Assembly came to a close on April 15th, after the novel coronavirus pandemic upended the legislative session. The public was locked out of the Capitol during the last four weeks of the session, yet lawmakers continued to meet and advance legislation.

We took the extraordinary step of calling on legislators to adjourn until all Kentuckians would be allowed to safely participate in the legislative process. They continued to work despite the Governor's directives and the guidance of public health professionals, so we persisted remotely.

Our Advocacy Team lobbied via phone, email, and text messages, and submitted written testimony to several committees to defend civil rights and liberties on the record. Our Communications Team kept our members and supporters informed and called them to action on our digital platforms. While the coronavirus stopped many bills, we are excited to share a number of victories.

VICTORIES

There were no anti-abortion bills signed into law. This is a first since the GOP gained supermajorities in the Kentucky House and Senate four years ago.

ACLU-KY Policy Strategists Keturah Herron (center), Amanda Hall (right), and Smart Justice Advocates accompanied Savvy Shabazz (far left) as he submitted a pardon application at the Governor's Office.



Top: ACLU-KY Board Member Omar Salinas-Chacón spoke at the Fairness Coalition's Fairness Rally at the Capitol on February 19th.

Bottom: Smart Justice Advocates met with Minority Floor Leader Joni Jenkins while a documentary film crew captured footage. You can watch the short documentary about the advocates' work at [ACLU-KY.org/SmartJusticeAdvocates](https://www.aclu-ky.org/SmartJusticeAdvocates).



Two of our Smart Justice priority bills received final passage and became law.

House Bill 237 expunged charges from people's records if they were acquitted or the charges were dismissed, upholding the principle of "innocent until proven guilty." House Bill 284 creates incentives for probation to match those of parole to encourage treatment for substance use disorder and support work and education opportunities. This will provide opportunities for folks on probation to get back on their feet, reducing incarceration rates and growing Kentucky's economy.

Senate Bill 1, the anti-immigrant family separation bill, died in the House.

Going into the session, we knew that there was going to be a serious threat of anti-immigrant legislation, but we did not imagine it would be the Senate's number one policy priority. Luckily, we were able to move quickly to contract with Francisco Serrano, a long-time volunteer with expertise on immigration issues and experience with grassroots organizing. We worked quickly at the start of session to create hurdles that would slow the bill down, with the goal of stopping it in its tracks. There are a number of reasons SB 1 ultimately failed, including great advocacy from grassroots, immigrant advocates. The bill's failure wasn't something we could envision at the start of session, and we are happy to have played a significant role in its demise.

Governor Beshear vetoed Senate Bill 9, which was passed late at night in the final three hours of the session. SB 9, the bill for the so-called "protection of infants born alive during an abortion," was amended in the House to add the provisions of House Bill 451. HB 451 would have taken oversight of abortion providers from career health experts at the Cabinet for Health and Family Services, and permanently given it to the Office of the Attorney General. AG Cameron has made clear that if given this authority, he

would shut down abortion providers during the ongoing COVID-19 state of emergency. The Governor's veto was key to maintaining access to abortion care in the Commonwealth.

Governor Beshear also vetoed Senate Bill 11, which would have created a new felony for damaging rental property, allowing unscrupulous landlords to exploit and intimidate vulnerable tenants. It was especially cruel for lawmakers to pass this bill as many Kentuckians face housing insecurity due to the novel coronavirus.

We celebrated one last, but short-lived victory. **Governor Beshear vetoed Senate Bill 2, the Mandatory Voter Photo ID Bill.** Unfortunately, legislators voted to override the veto and the bill is scheduled to become law in July.

A LOSS

Marsy's Law will be back on the ballot for Kentucky voters this fall. The Marsy's Law campaign is a national effort, backed by millions of out-of-state dollars, that seeks specific changes to state constitutions that undermine a bedrock principle of our legal system: the presumption of innocence.

Marsy's Law uses inconsistent and confusing language that would create significant unintended consequences. Other states that have implemented Marsy's Law have faced many challenges, including a lack of transparency in the justice system; unlikely groups, like police departments, claiming victim status; and astronomical implementation costs.

Marsy's Law is also an empty promise that has no funding and no mechanisms to enforce its provisions. Kentucky has a Victims' Bill of Rights. Lawmakers should update those statutory protections if they are not meeting the needs of victims, rather than permanently change Kentucky's Constitution.

Kentucky voters previously weighed-in on Marsy's Law, but they weren't given complete information on the ballot about what this change to Kentucky's Constitution would mean. With the additional information now available, we hope voters will reject this measure.

2020 GENERAL ASSEMBLY BY THE NUMBERS

932 bills

filed during the 2020 Regular Session of the Kentucky General Assembly

312 bills

tracked by the ACLU-KY Advocacy Team

127 bills or 13.6 percent of bills

filed are eligible to become law

Nearly 60 directly impacted advocates

lobbied with our staff at the Capitol with the support of Smart Justice interns Alaina Combs and Erika Pettus and Social Work practicum student Kendall Jordan

94 ACLU-KY legislative meetings

with countless more interactions via text, phone, and hallway conversations

2,703 emails

sent to legislators by ACLU-KY members/supporters

MORE WORK TO DO

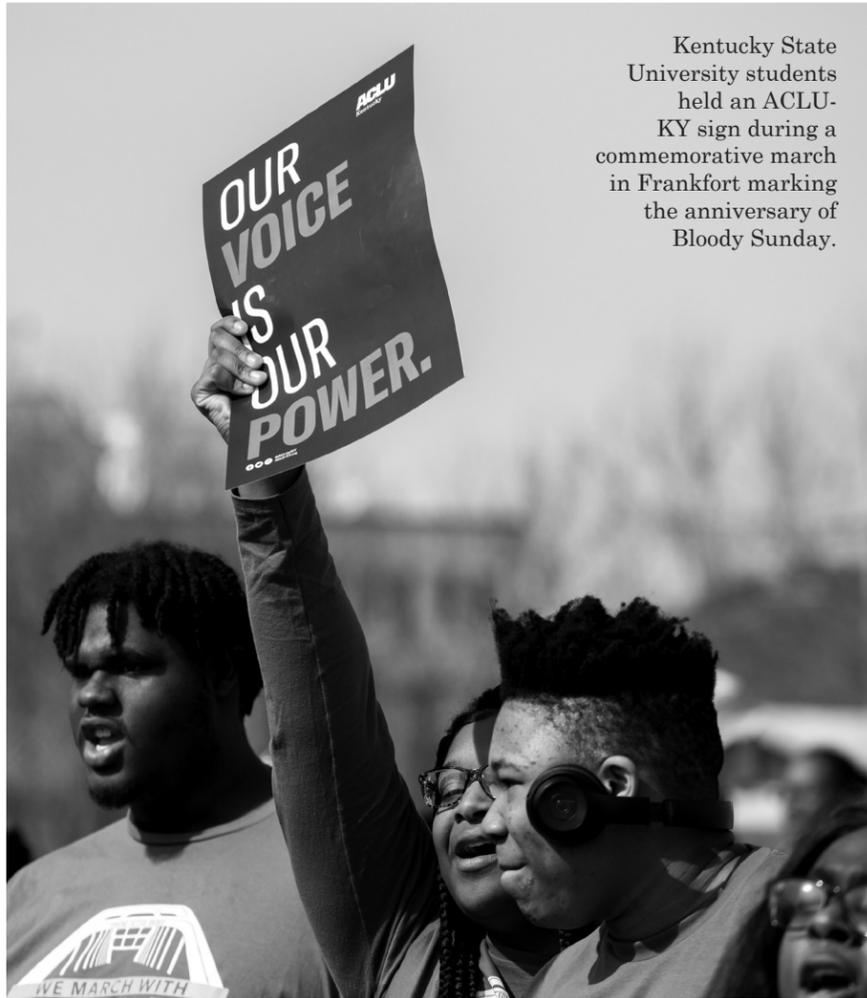
We were unable to move legislation addressing racial disparities in the juvenile justice system. The closure of Louisville's youth detention center and the coronavirus pandemic have made this work even more urgent. We look forward to advancing it in the next session.

The clock ran out on a number of anti-abortion bills that were headed toward final passage before the pandemic. We expect to see these bills again in future sessions. They include an anti-abortion constitutional amendment; targeted and burdensome regulations for abortion providers on the handling

of biological tissue; and additional, unnecessary audits for abortion providers.

A proactive piece of legislation for reproductive freedom, the Maternal Care Act, didn't move past the introductory phase. This bill addresses racial disparities in maternal mortality by requiring implicit bias training for medical professionals, more access to doula services, and better tracking of maternal and infant deaths in the Commonwealth.

We tracked 312 bills this legislative session. For an in-depth look at the legislation we kept an eye on and where it ended up, visit [ACLU-KY.org/Legislation](https://www.aclu-ky.org/Legislation).



Kentucky State University students held an ACLU-KY sign during a commemorative march in Frankfort marking the anniversary of Bloody Sunday.

First, we have had a productive dialogue with the Governor, the Secretary of State, and the State Board of Elections to ensure a free, fair, and safe primary in June and general election in November. We recommended best practices and most of our recommendations were adopted for the June 23 primary.

Additionally, we are considering a legal challenge to Senate Bill 2, the Mandatory Voter Photo ID Bill, with assistance from the national ACLU's Voting Rights Project. The Governor vetoed the bill, but lawmakers overrode his veto. SB2 is scheduled to go into effect *after* the June 23 primary, but *before* the November general election.

Second, we are closely monitoring the dire situation in Kentucky's chronically-overcrowded jails and prisons. In such tight quarters, incarcerated people are unable to adopt safety measures to protect themselves from the novel coronavirus, including social distancing and frequent sanitization of shared surfaces.

We are urging officials to alleviate overcrowding, engaging directly with the Justice Cabinet, Governor Beshear, the Department of Juvenile Justice, and the Kentucky Supreme Court. Reducing overcrowding will protect incarcerated people, corrections employees, and the communities those employees call home.

Incarcerated people and their families continue to report unsafe and unsanitary conditions in Kentucky's jails and prisons. We are working with experts in the field and are considering litigation that would save lives by seeking release on a broad scale.

Our legal and advocacy teams are proud to support the work of allies who are getting people released or back on their feet after release.



The legal team is especially proud to support the work of Kentucky's public defenders who are doing incredible work advocating for release on a client-by-client basis.

Last, we are closely monitoring officials' actions to protect reproductive freedom. Fortunately, Kentucky is not one of the states in which emergency litigation has been needed to protect access to time-sensitive, essential abortion care.

Although the Attorney General made grand-standing remarks about his desire to block all access to abortion care during the current COVID-19 state of emergency, our client was able to

continue providing this essential and time-sensitive care, while taking the recommended steps and precautions to limit the spread of the novel coronavirus.

As always, we have our work cut out for us. We are grateful to have a broad network of partners and allies who are committed to ensuring the rights of all people are protected, whether at the ballot box, within the criminal legal system, or in reproductive healthcare facilities. We will remain vigilant throughout this public health crisis and continue fighting to protect and expand the civil rights and liberties of all people in our Commonwealth.

ACLU Senior Staff Attorney Andrew D. Beck met with reporters after an appearance before the United States Court of Appeals for the Sixth Circuit on January 29th. The ACLU is challenging Kentucky's abortion method ban. The law is not in effect while the case moves through the courts. Learn more at [ACLU.org/Cases/EMWvMeier](https://www.aclu.org/cases/emwvmeier)

LEGAL UPDATE

Along with the rest of the world, the legal program's spring plans were turned upside down by the novel coronavirus. We are meeting this pandemic head-on to protect our elections, alleviate the suffering in Kentucky's jails and prisons, and defend reproductive freedom.

Civil liberties and vulnerable people are often the worst affected in times of crisis. This pandemic has laid bare the systemic failures in our healthcare, political, and economic systems.

National trends are playing out in communities throughout the Commonwealth: communities of color make up a disproportionate number of infections and fatal complications, incarcerated people are at acute risk of exposure and illness with no ability to practice social distancing, anti-abortion politicians are trying to use the pandemic as a guise to limit reproductive freedom, universal access to safe voting has been thrown into question, and civil liberties are being curtailed in the name of public safety.



ACLU-KY & FFRF Client Ben Hart displays his "IM GOD" license plate.

Q & A WITH ACLU-KY CLIENT BEN HART

Last year, a federal judge found the Commonwealth of Kentucky violated Ben Hart's First Amendment Rights when he was denied a license plate reading "IM GOD." In November 2016, Mr. Hart filed a lawsuit against Kentucky Division of Motor Vehicle officials who called his requested license plate "obscene or vulgar." Later, the state said the plate was rejected because it was "not in good taste."

Mr. Hart filed the lawsuit with the help of ACLU-KY and Freedom from Religion Foundation (FFRF). In it, Hart challenged the Transportation Cabinet's denial of his plate based on the state's policy prohibiting plates they claim to contain religious or anti-religious messages. Earlier this year a federal judge ordered the Commonwealth of Kentucky to pay more than \$150,000 to ACLU-KY and FFRF to compensate us for our work representing the freethinker.

Ben Hart lives in Northern Kentucky. He is a Postal Service retiree and is married to his middle school sweetheart. Although raised in a religious family, he began to question religion as a child and now identifies as an atheist. He recently picked up his "IM GOD" license plate from his County Clerk's Office. We spoke with him about the case and his life as an ACLU client.

Q: When you were first denied your "IM GOD" plate and you reached out to the Freedom From Religion Foundation and ACLU, what did you expect to happen?

A: I thought Kentucky Transportation Department officials would change their minds. It seemed the logical thing to do!

Q: Your legal battle with the state of Kentucky took nearly four years. What was it like waiting that long for a resolution?

A: I'm 80 years old with a bad heart. I was beginning to think I wouldn't last long enough!

Q: What was it like the day you went to pick up your license plate?

A: The clerk I got was not familiar with my case. She kept trying to charge me. I told her to ask a supervisor. She finally did and I got the plate. I showed everyone in line and said, "This is the most famous license plate in the world!"

Q: How do you want people to react when they see your license plate?

A: I would like them to comment, negative or positive. I want to tell them my story. I want to explain I'm not the God of the Bible who drowned all the babies in the world. I'm the god of the dictionary. The American Heritage [Dictionary] has six definitions for god. Number five is a very handsome man, and my wife says I'm a very handsome man, and nobody argues with my wife!

Q: Your case made headlines across the country! What are some of your favorite ways you've been recognized for bringing this case?

A: First of all, the BBC picked up the story and it went around the world. So, I do indeed have the most famous license plate in the world. I have also been named Freethinker of the Year by FFRF. They told me I would get a plaque, \$1000, and an all-expenses-paid trip to their convention in San Antonio, Texas. I'm supposed to be one of the speakers along with Gloria Steinem and others! I hope it doesn't get canceled because of the pandemic.

Q: Anything else you'd like to share with ACLU-KY members and supporters?

A: I am so very proud of the ACLU, especially Corey Shapiro and Heather Gatnarek. They spent a lot of time on my case. They even came to the hospital to see me when I was ill. I can never say enough good things about the ACLU.

VOTE. VOTE. VOTE. VOTE.
VOTE. VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.
VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.
VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.

LIKE YOUR RIGHTS DEPEND ON IT.

VOTE. VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.
VOTE. VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.
VOTE. VOTE. VOTE. VOTE. VOTE. VOTE.

2020 ELECTIONS

The 2020 primary and general elections are coming right up. There are new procedures to make voting safer in the delayed primary, and thousands of Kentuckians with past felony convictions can now register to vote.

JUNE 23 PRIMARY CHANGES

Kentucky's primary elections have been rescheduled to **June 23, 2020**. All eligible voters can request a mail-in absentee ballot. All registered voters should receive a postcard from the Secretary of State with information about how to request an absentee ballot or schedule an appointment to vote in-person.

We submitted recommendations to elections officials to ensure a free, fair, and safe election. We are pleased that the Secretary of State, the Board of Elections, and the Governor worked together and adopted several of them, including provisions:

- allowing all eligible voters to cast a mail-in absentee ballot without an excuse
- providing free return postage for all mail-in ballots
- accepting mail-in ballots postmarked by June 23 and received by June 27
- offering early in-person voting from June 8 through June 23
- allowing elections workers to count ballots before and after June 23
- ensuring county clerks and poll workers are fully staffed and supported

RESTORATION OF VOTING RIGHTS

Last December, Governor Beshear signed an executive order restoring voting rights to more than 140,000 Kentuckians with past felony convictions. This order applies to people who have completed their full sentence, probation, and parole. It also applies to people who are still on probation and parole only because of unpaid fines or restitution. **All people whose rights were restored must still register to vote. Connect to the state's database to find out if your rights were restored and learn more at [ACLU-KY.org/ROVR](https://www.aclu-ky.org/ROVR).**

This order was a significant step in the right direction, but leaves behind more than 100,000 others. It could be reversed by a future governor's order. We will continue working with lawmakers to have restoration written into law. No Kentuckian should be denied this most fundamental right.

REGISTER TO VOTE OR UPDATE YOUR INFORMATION

Visit [GoVoteKY.com](https://www.GoVoteKY.com) to:

- Register to vote
- Update or verify your registration information
- Find your polling location
- View a sample ballot
- See what forms of ID are required to vote (*please note Senate Bill 2, the Mandatory Voter Photo ID Bill, will NOT be in effect for the primary election. Learn more about SB 2 on page 6.*)

Primary Election

- Registration deadline - Tuesday, May 26, 2020
- Primary Election Day - Tuesday, June 23, 2020

General Election

- Registration deadline - Monday, October 5, 2020
- Election Day - Tuesday, November 3, 2020

COMPLETE YOUR CENSUS

Getting an accurate count of all people in Kentucky will help our commonwealth rebuild after the pandemic. Responding to the census has never been easier, and can be done without coming into contact with others. You can respond online, over the phone or by mail.

Visit [ACLU-KY.org/Census2020](https://www.aclu-ky.org/Census2020) to learn more and complete your census.



WE THE PEOPLE DINNER 2020

Due to the novel coronavirus pandemic, we came to the difficult decision to cancel our annual We The People Dinner a week before the event. It was a decision that we did not taken lightly. For 20 years, Susan Hershberg and Wiltshire Pantry have hosted the dinner. It is an annual tradition that brings advocates, volunteers, and members of our community around a table to share a meal together. As disappointed as we were to not be together again this year, the health and safety of our community were our top priorities.

ACLU-KY and The Fairness Campaign have come to depend on the funds raised through We The People to continue our work in creating a more equitable Kentucky for all. We are incredibly grateful for the event sponsors and ticketed guests that let their contributions stand to benefit both organizations. We are also grateful for the community supporters who donated after the cancellation announcement to help us honor our commitments to Susan Hershberg and her Wiltshire team.

We're hopeful this event will return to the Speed Art Museum in 2021! Save the Date for Saturday, March 20, 2021.

THANK YOU

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KY Health Justice Network
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District 4
Chris Kolb for School Board
Councilman Pat Mulvihill
Dan Borsch for Metro Council
District 8
Darryl Young for Metro Council
District 4
David James for Metro Council
District 6
Djenita & Paya Pasic
Dorene Stein
George Russell
Judge Ellie Kerstetter
Judge Katie King
Kristina Smith for Louisville
Metro Council District 6

BRONZE CONT.

Kungu Njuguna
Marcia & Edwin Segal
Neville Blakemore
Rachel Cutler & Curtis Stauffer
Re-Elect Judge David P. Bowles
Representative Attica Scott
Sam Marcossou
School Board Member James
Craig
Scott Rogers & Greg Brown
Senate Minority Leader Morgan
McGarvey
Seth Church
Shannon Fabert for Congress KY4
Steve & Willa Barger
Texas Roadhouse Inc.
The Irish Rover

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Dorene Stein
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Kentucky Foundation for Women
Emily & Randy Strobo
Heather Falmen
Lucas Elliott
Natalie Harris
Marc Mourer
Kathleen Pellegrino
Robert Simpson
Roberta Hershberg
Ron Rubin
Sayre Reece
Tom Wallace Lyons

WAYS TO GIVE



The novel coronavirus pandemic highlights the horrific consequences of racial and social injustices within our economic, healthcare, and political systems. Our work has taken on new urgency during this crisis. By reaffirming your support, you will make an immediate impact on ACLU-KY's legal and advocacy work to reduce the number of people living in jails, prisons, and detention centers; protect time-sensitive, essential reproductive healthcare; and ensure upcoming elections are safe, free, and fair.

As we continue to fight for the most vulnerable in our society, we hope you will continue to stand with us and renew your commitment. You can do so in the following ways:

- Send a tax-deductible donation by returning the remittance envelope enclosed in this newsletter or sending a check to 325 W. Main Street, Suite 2210, Louisville, KY, 40202. Please make checks payable to ACLU of Kentucky Foundation.
- Visit [ACLU-KY.org/Give](https://www.aclu-kentucky.org/give)
 - Make a tax-deductible donation online.
 - Honor or remember someone special with a gift in their name.
 - Renew your membership for the upcoming year or give the gift of membership to someone special.
- Become a sustainer and have an automatic monthly donation charged to your credit card. To learn more, contact Jay Todd Richey at Jay@ACLU-KY.org.
- Create a legacy by leaving a gift in your will, beneficiary designation, or charitable gift annuity. To learn more, contact Charlene Buckles at Charlene@ACLU-KY.org.

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325 W. Main Street
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INSIDE: HOW THE ACLU IS RESPONDING TO THE CORONAVIRUS PANDEMIC AND A LOOK BACK AT THE 2020 KY GENERAL ASSEMBLY



VOLUNTEER SPOTLIGHT

Bret Walker helps run Code for Kentuckiana and he recently put his tech skills to work for the ACLU-KY Advocacy Team. Bret created code that automatically populated a spreadsheet with bill information that our team used to track the more than 930 bills filed during the legislative session. The automation saved our team dozens of hours of work. When asked why he wanted to help, Bret said, “I appreciate how you all fight for the rights of Kentuckians. I know resources are tight at nonprofits like the ACLU, and I jumped at the opportunity to help make your staff’s lives easier.” We’re grateful to Bret and all of our volunteers who help with projects throughout the year.

IF YOU’RE INTERESTED IN VOLUNTEERING WITH THE ACLU OF KENTUCKY, PLEASE VISIT [ACLU-KY.ORG/ACT](https://aclu-ky.org/act).