



# The Torch

Spring 2016 *Newsletter of the American Civil Liberties Union of Kentucky Foundation*



Hundreds of Kentuckians gathered to tell legislators, “No! We will not go back!” at the ACLU-KY/Planned Parenthood Rally for Reproductive Rights February 23rd.

## LEGISLATIVE UPDATE

The 2016 General Assembly is complete! The ACLU of Kentucky worked with allies and members to organize and lobby on a number of issues. Here is a look at our victories and the work still ahead:

### REPRODUCTIVE FREEDOM

Sadly this year is the first year in over a decade that Kentucky passed and signed into law an anti-choice piece of legislation. On February 4<sup>th</sup>, Governor Matt Bevin signed Senate

Bill 4, which mandates that a patient have a “face-to-face” consultation with a doctor, nurse or social worker at least 24 hours prior to an abortion. Luckily, we were able to work with key legislators to amend the bill to allow for live video-conferencing for that consultation, such as FaceTime or Skype. This is the first bill in the nation that allows for these conversations to be done remotely through telehealth. Yet, for low-income patients and patients without access

to high-speed internet or cell reception, they will be forced to endure two trips to receive a legal and constitutionally protected medical procedure.

In addition to Senate Bill 4, we faced an unprecedented attack on reproductive rights in Kentucky. We fought a record 13 pieces of anti-choice legislation that ranged from Texas-style legislation that would force clinics to adhere to medically unnecessary regulations and force doctors to have hospital admitting privileges, to requiring a patient to listen to the results of an ultrasound before an abortion even if the patient begs to not hear the information.

When we needed help our allies and members came up big, packing the rotunda and balconies of the Capitol and taking to social media to add their voices to the thousands of Kentuckians that won't let politicians use a patient's body as their political playground.

### CRIMINAL JUSTICE

This general assembly marked Kentucky Smart on Crime's first legislative session. Members of the broad based coalition working for commonsense justice reforms include the ACLU of Kentucky, Kentucky Chamber of Commerce, Bluegrass Institute for Public



ACLU-KY Program Director Kate Miller speaks to reporters at the introductory press conference for the Kentucky Smart on Crime Coalition.



At a historic hearing on abolishing the death penalty in Kentucky Rep. David Floyd, second from the left, is flanked by Marc Hyden of Conservatives Concerned about the Death Penalty, far left, and retired Circuit Court Judge Steve Ryan, and former Assistant Commonwealth's Attorney Joe Gutmann far right.



Sen. Morgan McGarvey addresses the crowd at the Fairness Coalition Lobby and Rally Day February 17th.



(L to R) Liana Vasseur, Fredy Encarnacion, Carlos Maldonado, Representative John "Bam" Carney pose after a meeting where they discussed the Driving Certificate Bill. Throughout the legislative session we worked with undocumented Kentuckians to meet one-on-one with their legislators.

Policy, Kentucky Center for Economic Policy, the Catholic Conference, Kentucky Council of Churches, and the Kentucky Association of Criminal Defense Lawyers.

The coalition's priority was House Bill 40, a measure that would allow for the expungement of some class D felonies. The bill passed out of the Senate nearing the last day of session and was concurred upon by the House. Governor Bevin signed it into law before the end of the session. The measure was a compromise that allows some folks to vacate certain class D felonies after a 5 year waiting period. While Kentucky Smart on Crime was disappointed that the measure includes a \$500 fee, we are pleased that after over a decade in the making there will now be an opportunity for tens of thousands of Kentuckians to have a clean record- offering some relief to folks who are looking for a job, applying for school or registering to vote. HB 40 was carried by Representative Darryl Owens (D-Louisville), but passed with major support from Representative David Floyd (R-Bardstown), Senator Whitney Westerfield (R-Hopkinsville), and Senate President Robert Stivers (R-Manchester).

### DEATH PENALTY

The House Judiciary Committee chaired by Representative Darryl Owens held its first ever hearing with a vote on a bill to repeal Kentucky's death penalty. The vote was especially notable considering the bill's primary sponsor and longtime champion, Representative David Floyd, is retiring and 2016 was his last legislative

session. The bill was defeated after receiving 8 yes votes (it needed 10 to pass), but advocates are hopeful this is a major step in our journey toward repeal.

### LGBT RIGHTS

This past year has been a rollercoaster for LGBT rights in Kentucky. Following the marriage equality victory at the US Supreme Court in June 2015, Rowan County Clerk Kim Davis made national news for refusing to sign marriage certificates of same-sex couples, stating that it would violate her religious beliefs to do so. In December, newly elected Governor Bevin issued an executive order making changes to the form and when the General Assembly convened in January, legislation was filed to codify those changes.

Senate Bill 5, introduced by Senator Stephen West (R-Paris) would have created separate marriage license forms for gay and straight couples in Kentucky. Senator Morgan McGarvey (D-Louisville) proposed an amendment that would create a single form where applicants have the option to select "Bride," "Groom," or "Spouse." The amended bill, ultimately supported by a bipartisan coalition of legislators and the Kentucky County Clerks Association, was signed into law by Governor Bevin as the session closed.

If there was ever any doubt that the need for statewide non-discrimination protections exists, look no further than SB180, a measure introduced in the 2016 legislative session which would have allowed businesses open to the public to refuse service to LGBT individuals.

While the bill passed the Senate, the House refused to even hear the legislation and the measure failed but we believe that it will reappear in the future so we must remain vigilant in fighting for non-discrimination protections for all Kentuckians.

### IMMIGRANTS' RIGHTS

Even though advocates had a strong vote count for the House Transportation Committee, Representative Hubert Collins (D-Wittensville) refused to hold a hearing for the driver's certificate bill. We are disappointed by the stalled measure, but look forward to continuing our work of connecting undocumented Kentuckians to their lawmakers as we did during the 2016 legislative session. We also want to honor bill champion, Representative Larry Clark's (D-Louisville) work on the measure as 2016 marks his last General Assembly.

Don't forget lawmakers are interested in getting feedback on the issues they acted on this year, as well as the matters that still need to be addressed in future legislative sessions. To leave a message for any legislator, call the General Assembly's Message Line at 1-800-372-7181.

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## LEGAL INTERN




### MEET SUMMER 2016 LEGAL INTERN MARY ANNE LEE

Mary Ann Lee is a second-year law student at the University of Kentucky College of Law where she enjoys studying constitutional law, criminal procedure, family law, and sexuality and the law. Originally from Frankfort, KY, she lived in Boston for seven years where she studied Women's and Gender Studies and Social Justice at Simmons College and then worked in Development at the Episcopal Diocese of Massachusetts. During her short breaks from law school, Mary Ann enjoys hiking, gardening, and advocating. Working at the ACLU of Kentucky has been one of her largest goals, and she looks forward to joining the staff this summer as an intern.



## LEGAL UPDATE

BY WILLIAM E. SHARP  
LEGAL DIRECTOR

 In the first quarter of 2016, the Legal Program has largely focused on discovery efforts in two of our pending federal lawsuits — *Evans v. Muhlenberg Co.* and *S.R. v. Kenton Co. Sheriff Dept.* In the *Evans* case, we represent a Central City man who was charged and arrested for felony terroristic threatening for posting heavy metal song lyrics on Facebook. We successfully defended him in the criminal case which resulted in a dismissal, and we then filed suit on his behalf against the county and the local police chief whose sworn statement provided the basis for the arrest warrant. In the lawsuit, *Evans* alleges that the officer's sworn statement materially misstated the facts about the Facebook post and omitted other facts (known to the officer) that, had they been included, would have established that *Evans* did not commit any crime. For example, the officer failed to inform the court that the "threat" consisted of song lyrics posted on Facebook, that *Evans* regularly posted song lyrics on Facebook, and that *Evans* cooperated with authorities when they interviewed him about the post. Several witness depositions have already been taken in the case, and more key depositions are scheduled this month. Assisting in this litigation is ACLU of Kentucky Cooperating Attorney Brenda Poplewell.

The other case in which fact discovery is ongoing is the *S.R.* case in which the ACLU of Kentucky, Children's Law Center, and the law firm of Dinsmore & Shohl represent two elementary schoolchildren who were handcuffed by a School Resource Officer. In those instances, the children were too small to be handcuffed normally, so the children's arms were restrained behind their backs with the handcuffs placed above the children's elbows. The suit alleges violations of the children's rights under the Fourth Amendment for unlawful seizure and excessive force, and under the Americans with Disabilities Act due to the children's pre-existing conditions. Witness depositions are ongoing with several depositions remaining this month.

In addition to the trial-level litigation activity, we also recently partnered with the national ACLU's LGBT Project to request that prison officials at Eastern Kentucky Correctional Complex abandon a mail policy that forbids inmates from receiving mail that "promotes homosexuality." As we explained in our letter to the prison, the regulation "singles out particular individuals for unequal treatment on the basis of their sexual orientation thus denying them the fundamental right to receive information protected by the First Amendment." As of this writing, we await the prison's response.





Susan Hershberg  
and Lisa Gunterman

# *The Wiltshire Dinner* ~

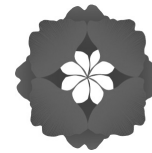


The American Civil Liberties Union of Kentucky would like to extend a very special Thank You to Susan Hershberg and The Wiltshire Pantry for an elegant dinner on March 26th. The annual celebration honors the committed partnership between the Fairness Campaign and the ACLU of Kentucky as well as the contributions of those who work daily protecting the civil liberties and civil rights of all Kentuckians! Special thanks to our generous sponsors who helped make this event a success!

Clockwise from top left: Marc Mourer, Tim Holz, Ed Kruger, Gregory Fulkerson; Lori Kay Scott, Wil Heuser and Stacey Robinson; Jamie McClard and Dora James; Rev. Millie Peters, Channele Helm, Kashiya Nwanguma, Meg Sasse Stern, Rep. Mary Lou Marzian.

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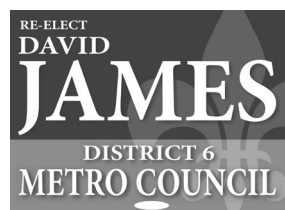
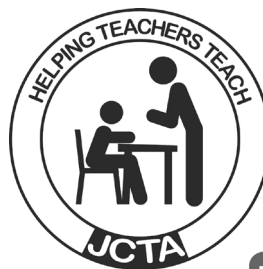
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## 2016 YOUTH RIGHTS CONFERENCE

Above: Youth Rights Conference participants work together on a current events activity at the Muhammad Ali Center March 5th.



More than one hundred students from over a dozen Louisville-area schools participated in the 2016 Youth Rights Conference on Saturday, March 5th. The Muhammad Ali Center hosted the event and partnered with ACLU-KY staff to empower students to put together the one-day conference that centered on social justice, privilege and oppression.

This year participants heard from speakers like University of Louisville freshman Leo Salinas Chocon about how his immigration status impacted his life, specifically what it was like to come out about his status when he was serving as class president at Eastern High School. Students also heard from Vade Aslanova, a 17-year-old refugee of Turkish descent who emigrated from Russia. She shared her experiences of living in a refugee camp, and what it was like for her and many other refugees who are separated from loved ones. Finally, students watched a

video featuring Margeaux Gray, who was a child human trafficking victim that has gone on to help others escape. Gray highlighted that while human trafficking is a global problem you don't have to leave your own backyard to see it.

Students led each other in small group activities that used candy to demonstrate income inequality and chairs to show how privilege and power work. Conference participant and ACLU of Kentucky Carl L. Wedekind Fellow Izzy Sanchez said, "The conference was a great way to get young people exposed to topics they might have never thought of while also having fun." The annual Youth Rights Conference allows the ACLU-KY to put our Youth Rights Program mission in action by empowering young people to engage and advocate for the civil rights and liberties enumerated in our Commonwealth of Kentucky and United States Constitutions.



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The nominating committee of the American Civil Liberties Union of Kentucky is pleased to welcome three individuals to new terms on the Board of Directors. Candidates were elected by the membership, who had the option to cast their votes by mail or in person at our Annual Meeting on April 19th. The new members' terms will last until spring 2019.

The new members are:

## NEW MEMBERS OF THE BOARD OF DIRECTORS



### KYLE DOVER

Kyle Dover is a founding partner of Teleos Consulting and he has over 30 years experience with executive and organization development.

Kyle holds a B.S. in Education and a Master's in Human Resource Management and Organization Development from Ohio State University. His consulting practice focuses on executive coaching and building organizations for sustainable success. He has a special interest in developing collaborative leadership skills throughout organizations.

In addition to his corporate practice, Kyle has previously done pro-bono coaching and consulting for non-profit organizations working in the areas of women's rights, promoting women candidates, affordable housing, and literacy. Now, with the ACLU of Kentucky, he wants to work extensively on the critical topics of voting rights and reproductive freedom.



### BRANDON EDWARDS

Brandon Edwards is a practicing attorney in Louisville, Kentucky. He concentrates his practice on employment law and family law.

He went to law school because he was drawn to civil rights advocacy. Prior to entering private practice, he worked as a public defender in Louisville protecting the rights of criminal defendants. He is particularly interested in the development of LGTBQ rights, more specifically, the inclusion of sexual orientation as a protected class in Title VII of the Civil Rights Act of 1964. He is also interested in the recent troubling recurrence of police misconduct that affects minority communities and looks forward to working on all of these issues as a Board member of the ACLU of Kentucky.



### CAITLIN LALLY

As the Political and Communications Director for United Food and Commercial Workers Local 227, Caitlin Lally is responsible for the advancement of legislative and electoral priorities that will help to provide Kentucky and Indiana's hard working men and women a better life for their families. By developing a grassroots union member activist network, an aggressive internal communications operation and a strong community engagement strategy UFCW Local 227 has become an important resource and ally for elected officials and community partners.

In 2015, Caitlin was elected by her peers to serve as the Vice President of the Greater Louisville Central Labor Council. The CLC is the collective voice and action network for all union activists in Louisville and the surrounding counties. She also serves as the Treasurer on the Board of Directors of Emerge Kentucky, an organization dedicated to identifying, training and encouraging more women to run for public office.

Caitlin holds a M.P.S. from The George Washington University's Graduate School of Political Management and a B.S. in Political Science from Appalachian State University.



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*2016 Annual Meeting*