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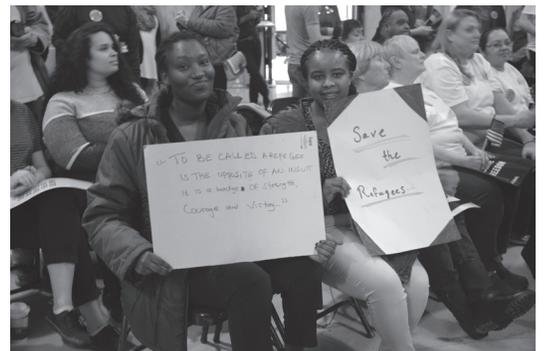
THE TORCH

Spring 2019 Newsletter of the American Civil Liberties Union of Kentucky Foundation



THE 2019 KENTUCKY GENERAL ASSEMBLY

The Kentucky General Assembly met for **30 DAYS** this year and members filed nearly **800 BILLS** in addition to hundreds of resolutions. The ACLU of Kentucky tracked about **250 PIECES OF LEGISLATION** with several dozen priority pieces of legislation in play. ACLU staff had **56 ONE-ON-ONE MEETINGS** with lawmakers and countless other interactions with state representatives, senators, legislative staff, allies, and adversaries. We also **CONNECTED COUNTLESS KENTUCKIANS** to their lawmakers through our mini-lobby days focused on ending the death penalty and promoting immigrants' rights. We continue to build our influence with lawmakers, including key committee chairs and important members of leadership from both parties.



We worked with members, supporters, and allies on hundreds of pieces of legislation during the 2019 General Assembly. Thanks to all who made calls, sent emails and rallied with us in Frankfort. Photos by Jay Todd Richey and Keturah Herron.

ACLU
Kentucky



Here are highlights from one of our most active, successful legislative sessions yet:

Reproductive Rights & Access to Abortion:

Even though the legislature passed four new restrictions on abortion access, we had one major reproductive rights success with the passage of the Pregnant Workers Act. SB 18, filed by Republican Senator Alice Forgy Kerr, puts in place modest accommodations for pregnant Kentuckians in the workplace. This was the 5th year the bill was filed but the first year it passed the Senate. It cleared the House on the last day of the session, with only five no votes, and the Governor signed the bill into law.

Abortion restrictions were so extreme this year that even anti-abortion Democrats and Republicans indicated they had concerns. Republican Senator Julie Raque Adams voted no on the six-week abortion ban, SB 9, and Republican Representative Jason Nemes offered a failed amendment on the same bill to provide limited exemptions for certain fetal anomalies. Two of the new abortion restrictions, the six-week ban and HB5 the reason ban (which prohibits abortion for certain reasons like the race or gender of the fetus), were temporarily blocked by the courts after we filed suit. We are monitoring the implementation of HB 148, the trigger ban (which will ban abortion in Kentucky if *Roe v. Wade* is overturned in whole or in part by SCOTUS). We are also monitoring SB 50 which requires medical providers to share unproven information about “abortion reversal” with patients.

Justice Reform & Mass Incarceration:

When the ACLU helped pass felony expungement in 2016, we knew it was only a first step. Many people were

ineligible due to the limited number of felonies expungable, the high filing fee, and lengthy waiting period. This year we worked to successfully push a bill to make expungement more accessible by adding to the list of eligible felonies and reducing the filing fee from \$500 to \$250. Republican Senator Jimmy Higdon carried the bill with cosponsor Democrat Senator Gerald Neal. The bill had been filed for a number of years and often failed because of opposition from some organizations. However, it passed the Senate and House with only seven no votes, collectively, and was signed by Governor Bevin.

The ACLU-KY also successfully held back several attempts to further limit access to substance-use disorder treatment, to create new crimes, and lengthen sentences. Finally, we helped advance a bill to expand access to recovery services. This was the first year HB 121 was filed and Representative Kimberly Moser successfully passed it from the House before it stalled in the Senate.

Kentucky Kids: SB 1 and HB 1, the school safety and resiliency bills were major priorities for the General Assembly and enjoyed broad, bipartisan support. There was a lot in these bills to like, for example, boosting the number of mental health professionals in schools. Unfortunately, the bulk of this legislation was a requirement to place law enforcement officers in every school. ACLU-KY worked successfully to amend the bills to put in place strict guidelines related to law enforcement responsibilities in classrooms. SB 1 became the primary vehicle for the legislation and was signed into law, with our changes, by Governor Bevin.

These are just a few examples of the legislation we prioritized during the 2019 legislative session. We worked against a variety of other bills, from legislation mandating “In God We Trust” be displayed in Kentucky schools to restrictions on free speech on college campuses. For a full breakdown of our legislative session, check out our Legislative Wrap Up Report now available on our website.

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LEGAL PROGRAM UPDATE



The ACLU of Kentucky's Legal Program has been very busy since our last update. Our reproductive rights docket has expanded as the legislature and Governor continue to attempt to limit abortion access in Kentucky. In March, we, along with National ACLU's Reproductive Freedom Project and the national law firm of O'Melveny & Myers, filed a lawsuit on behalf of our client EMW, the sole remaining abortion clinic in Kentucky, challenging two laws recently passed by Kentucky's legislature restricting abortion access. One of those laws would bar Kentuckians from having an abortion if they decided to have one because of a fetal diagnosis or based on the sex, race, national origin, or ancestry of the fetus. The other would ban abortion as early as six weeks of pregnancy, creating a near-ban on abortion in Kentucky. Almost immediately after the Governor signed each of the bills, the Federal District Court entered an order blocking the laws. The Court subsequently extended that order, by agreement of the Commonwealth and us, until the final ruling. We expect to brief the arguments throughout the year, after which the Court will issue its ruling.

The Commonwealth of Kentucky, as expected, has appealed to the Sixth Circuit Court of Appeals, seeking to reverse the decision that we won in *EMW v. Glisson*. That case involves a challenge to the state's requirement that abortion providers have a transfer

agreement with an area hospital and a transport agreement with an ambulance service. We have submitted our brief to the case. Several other organizations and individuals, including the American College of Obstetricians and Gynecologists, the Society for Maternal-Fetal Medicine, Attorney General Andy Beshear, and 22 other state Attorneys General each filed briefs in support of the trial court's decision. We expect the Sixth Circuit will hold oral arguments later this year.

Unfortunately, in one of our other abortion rights cases, the Sixth Circuit reversed the lower court's decision, upholding Kentucky's law requiring doctors to display and describe the details of an ultrasound, as well as make the fetal heartbeat audible, prior to providing an abortion procedure — even if the patient is closing their eyes or asking the doctor to stop and even when the doctor believes it would be harmful to the patient. We are determining our next steps regarding this unfortunate ruling.

In our fourth abortion rights case, we are now waiting for a ruling from the judge in our challenge to Kentucky's ban on the most commonly used method for performing second-trimester abortions. The court held a multi-day trial in November 2018. The parties filed their post-trial briefs and we now are waiting for a ruling from the judge.

Abortion, though, is not the only battleground for the legal program. With the assistance of our cooperating counsel at Kaplan, Johnson, Abate & Bird LLP, we completed discovery in our case challenging Governor Bevin's practice of blocking individuals on social media in violation of the First Amendment. In that case, we took over 15 depositions and successfully challenged the Governor's refusal to produce relevant documents including hundreds of screenshots of people who were blocked. We moved for summary judgment and are awaiting a ruling from the judge. We also finished extensive discovery in our First Amendment challenge to the Transportation Cabinet's refusal to allow certain religious and political personalized license plates. We have filed a motion for summary judgment in that case as well and expect a ruling later this year.

We also continue to grow. Last year we had only two members of the Legal Program, Corey Shapiro and Heather Gatnarek. In the fall, we hired our first Legal Assistant, Frank Bencomo-Suarez. This coming fall, we will expand even more with the hiring of a new, two-year Legal Fellow. We are excited to expand the Legal Program as we know there is plenty of work for us to do.

We encourage ACLU members and supporters to follow us online and on social media for updates on these important cases.



In her decades-long career with the ACLU-KY, Suzy served as a board member, board chair, and executive director. In 1989 she established the Reproductive Freedom Project (RFP).

She worked with Ruth Bader Ginsburg at the national level to make women's issues a priority for the ACLU and then continued to do so at the local level when she became executive director of the ACLU-KY. Post's passion for social justice work was consistent in her life from the beginning. "I loved it," she said on the occasion of the ACLU-KY's 60th anniversary in 2015, "It's a wonderful feeling to know that your life has mattered."

ACLU-KY executive director Michael Aldridge recounts that on a recent visit she continued to ask for work. "I'd have lunch with her and she'd ask me to have her meet with donors or to set up a public speaking opportunity. She was restless and relentless, never one to sit on the sidelines when people's lives were being systematically destroyed in broad daylight," said Aldridge. "I'll remember her as a great mentor who wasn't afraid to tell me when she felt I was off track, and for that, I will be forever indebted," he added.

Suzy's passion for justice was recognized on the House and Senate floors during the Kentucky General Assembly, on the floor of the U.S. House of Representatives, and in Louisville at a Community Memorial held at the Muhammad Ali Center attended by hundreds. The ACLU-KY recently dedicated the Suzy K. Post Community Meeting room in her honor at their Louisville office.

The ACLU-KY is appreciative to Suzy's family for directing memorial gifts in her honor to the organization to continue her legacy. You can make a donation in her memory on our website www.aclu-ky.org.

IN MEMORY OF SUZY K. POST

On January 2nd Kentucky lost a giant for justice in the passing of Suzy K. Post. Suzy was an indomitable spirit who spent a lifetime speaking out against injustice in every form.

Suzy's uncle, Arthur Kling, sought the charter to establish the ACLU-KY in 1955 and Suzy became involved as a young woman, shortly after returning from Berkeley, where she attended college.



NEW STAFF MEMBER

The ACLU-KY staff continues to grow. We're excited to welcome Keturah Herron to our team as our new Field Organizer for Juvenile Justice Reform.

Herron was born and raised in Kentucky. She is a social justice advocate and change agent with over 15 years of experience working with youth and families involved in the social service and the criminal justice systems. While in graduate school, Herron focused on the effects of parental incarceration on youth and disproportionate minority contact within the juvenile justice system in Kentucky. Since then, she has mentored and supported youth and families in rural and urban Kentucky, as well as communities in South Carolina and Hawaii. She has worked in a variety of settings like juvenile youth facilities, community-based organizations and in the court system.

More recently, Herron's work has focused on policy change through a social justice lens. She is working closely with the Jefferson County Public Schools System Alternative School Task Force and Race Equity Policy with a focus to end the school to prison pipeline. She is also active with several local groups including: Kentuckians For the Commonwealth, Black Lives Matter Louisville, and Louisville Family Justice Advocates.

Currently, Herron is building a culturally responsive curriculum for justice-involved youth that integrates trauma-informed healing and leadership development.

As the ACLU-KY's work on justice reform expands to include juvenile justice reform, we're thrilled to add Herron's insights and experience to our Advocacy Team. Louisville-area members will have the opportunity to meet Herron and learn more about juvenile justice reform during our Community Conversation Series (see sidebar for details). The Conversation Series began in mid-April and continues through June.

JUVENILE JUSTICE COMMUNITY CONVERSATION SERIES

The Juvenile Justice Community Conversation Series provides space for community voices to be heard in the movement for juvenile justice reform. Each session will introduce a new topic and walk participants through the system. This series aims to dismantle the myths regarding juvenile justice in Kentucky and create a pathway for community voices to be heard in juvenile justice reform. This event is for parents, youth directly impacted by the system, community members, and anyone who wants to get involved in juvenile justice reform.

Hosted at the Louisville Urban League
1535 W. Broadway
Louisville, KY 40203

5:30 p.m. Dinner served
6 p.m. Program Begins

Remaining Conversation and Topics:

Tuesday, May 21:
Legislative Process

Tuesday, June 4:
Resources for Youth

Tuesday, June 18:
Police in Schools

Childcare is available. RSVP to attend on our website
www.aclu-ky.org

NEW MEMBERS OF THE BOARD OF DIRECTORS



Omar Salinas Chacón

Omar Salinas Chacón is a Salvadorian-born American, Latino, Immigrant, Dreamer, Southerner, Kentuckian, and a gay man. He is one of the estimated 800,000 DACA recipients. He understood from a young age the importance of advocacy. He supported immigrants at his university by serving on advisory boards and on student government. He has presented on immigrants in higher education at national conferences focusing on best practices to recruit and retain said students. He was awarded the 2017 National Honors Student of the Year award by the National Collegiate Honors Conference for my research and advocacy in those fields. Because of his efforts in immigration, he was asked to speak at the White House Initiative on Educational Excellence for Hispanics Round-Table in 2015 and was invited to celebrate Hispanic Heritage Month at the White House that same year. He passionately believes in the ACLU of Kentucky's mission: to preserve liberty. He wants to protect the liberty of not just individuals like himself, but all those in the Commonwealth and the across America. Our destinies are intertwined in this American family. As long as that is true in America, if one of us cannot pursue life, liberty, and the pursuit of happiness, no one can.



Tim Heine

A native of Louisville, **Tim Heine** received his M.D. from the University of Louisville School of Medicine and completed his residency in anesthesiology at the Duke University Medical Center. After spending several additional years on the medical faculty at Duke, Tim and his family returned home. An anesthesiologist in a bustling, tertiary-referral community hospital setting for many years, Tim recently began the transition away from full-time private practice.

Previous experience has included service on the Board of Directors of The Clifton Center, the Peterson-Dumesnil House Foundation and multiple professional clinical and management entities. While Tim is excited to invest his energies on the entire breadth of issues advocated by the ACLU-KY, he is especially so in regard to the areas of the separation of church and state, women's reproductive health rights, and LGBTQ equality. Beyond his work, Tim has had a life-long fascination with the human species, especially the processes of natural selection and broad, ancient human migrational patterns. In this light, he returned to the classroom several years ago and will complete his M.A. – Anthropology at the University of Louisville in late 2019. Tim's thesis focus is on the foundational elements of human wall-building behavior.



Kungu Njuguna

Kungu Njuguna is first generation American of Kenyan descent, and is life-long resident of Louisville, Kentucky. He graduated from DuPont Manual High School in 1996 and from the University of Kentucky in 2003 with a J.D. and a degree in Political Science. He interned in the 2000 General Assembly and clerked for the Kentucky Supreme Court.

Kungu was an Assistant Jefferson County Attorney from 2003-2009, where he represented Metro Government in various §1983 actions, and was the attorney for the Human Relations Commission, which is charged with enforcing anti-discrimination laws. Currently, Kungu has been volunteering with the Kentucky ACLU Smart Justice Advocates and criminal justice reform. Kungu also attended the ACLU membership conference in Washington, D.C. in 2018. Kungu has a strong and deep desire to ensure the civil rights of all Americans and working towards educating the public on their constitutional rights.



Dominique Olbert

Dominique Olbert spends much of her time advocating for people from underserved groups with special needs. She is the Program Director for the Community Response Coalition, a nonprofit program that helps the families of people who have been arrested or detained for immigration reasons. Dominique joined the Board of Lexington Fairness this past November and is working on launching a new program which will rate Fayette County private and public middle and high schools on how LGBTQ+ friendly they are. As Co-Chair for Ohavay Zion Synagogue's (OZS) Social Action Committee, she coordinates congregant participation in political advocacy events and organized the synagogue's sponsorship of several refugee families. A member of the Gifted Accelerated Program Parent Association Board and newly appointed member of the Fayette County Public School Equity Council, she advocates for specialized immersion programs to address the complex and unique needs of gifted children. Dominique is also on the Finance and Program Committees of Pass It On Inc., a nonprofit that offers financial education and couponology classes to people with limited means.

Dominique is the mother of two teenage girls. She received her B.A. in English from Barnard College, her M.A. in Clinical Psychology from Long Island University, and her Alcoholism Counseling degree from The New School.



Kelsie Smithson

Kelsie Smithson joined the James Graham Brown Foundation as a Program Officer in January 2019 after spending six years managing Kelsie Smithson Consulting. In that time, her work included project management, marketing, fund development, and community outreach on behalf of the missions of Louisville Girls Leadership, Greater Louisville Project, The Wheelhouse Project, Kentucky Foundation for Women and the Center for Healthy Air, Water, and Soil. Kelsie acts as an advisor to Louisville Girls Leadership, serves on the WE Day Kentucky Steering Committee, and sits on the Community Advisory Board for Junior League of Louisville. She is a Louisville native and obtained her Bachelor's degree from the University of Louisville Kent School of Social Work in 2012. In 2016 she was named a New Face of Philanthropy by nFocus magazine and was recognized on Business First's 40 Under Forty list in 2018.

GRAND OPEN HOUSE AND ANNUAL MEETING



Top: (L to R) Michael Aldridge, Kungu Njuguna, Dominique Olbert, Tim Heine, Omar Salinas-Chacon, and Kelsie Smithson. Bottom: Members of Carl Wedekind's family were on hand to see the new Intern Center dedicated in his honor.

The ACLU of Kentucky office recently moved into a larger space to accommodate our growing staff team and better support our community allies. On April 18th we hosted a Grand Open House to welcome members and supporters to our Waterfront Plaza Office.

During the event, we dedicated our Suzy K. Post Community Room, which will soon be available for ally groups and organizers to reserve for small meetings. We also dedicated our Intern Center in honor of Carl Wedekind, the late ACLU-KY Board Member and death penalty abolitionist.

The new members of the Board of Directors were announced and departing Board Members — Patti Minter, Caitlin Blair, Don Rodgers, and Peggy Pitman-Munke — were recognized for their years of dedicated service.



WE THE PEOPLE DINNER



Over 500 supporters of civil liberties and LGBTQ rights joined us March 23rd for the 2019 We The People dinner hosted by Susan Hershberg & Wiltshire Pantry. This year marked the 20th anniversary of the dinner celebrating those who work on the front lines to create a more equitable Kentucky for all of us. The festive occasion was captured by Brymer Photography. Special thanks to staff of the ACLU of Kentucky and Fairness Campaign and volunteers Antonio Wilson, Tiffany LaVoie, Dean Miller, and Michelle Wheaton for beautifully arranging the space.

1. Susan Hershberg is joined by the Boards of Directors and Staff of the ACLU of Kentucky and Fairness Campaign. 2. Bani Hines Hudson, Alicia Hurle, Seun Erinle. 3. Ken and Shelly Zegart. 5. David Tandy, Michael Aldridge, Carolyn Tandy. 6. Becky Roehrig, Lisa Gunterman. 7. Amy Cabbage, Graham Troop.



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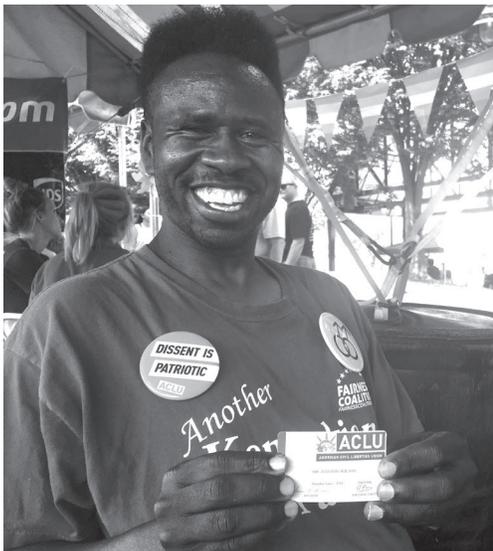
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WE'RE CELEBRATING 30 YEARS OF THE ACLU-KY REPRODUCTIVE FREEDOM PROJECT THIS OCTOBER



VOLUNTEER SPOTLIGHT

We're grateful to volunteers who help with projects throughout the year. **Antonio Wilson** is always up for helping out in any way he can and does so with a huge smile! It's very likely you've received a call from Antonio. He enjoys phone banking and often helps call ACLU-KY members to alert them about key issues they need to take action on. Antonio has tabled at a number of community events including Kentuckiana Pride and the Kentucky State Fair. He is a huge help and we appreciate his good work.

We rely on our members in all corners of the Commonwealth to help us protect civil liberties. If you're interested in volunteering with the ACLU of Kentucky, please visit our new website and click on the "Get Involved" tab on the home page.

RFP 30TH

STAY TUNED! WE'LL BE CELEBRATING THE 30TH ANNIVERSARY OF THE REPRODUCTIVE FREEDOM PROJECT BENEFIT THIS OCTOBER IN LOUISVILLE. KEEP YOUR EYE ON OUR WEBSITE ACLU-KY.ORG AND OUR SOCIAL MEDIA PLATFORMS FOR EVENT DETAILS COMING SOON.