

Law Requiring Businesses to Post Anti-Trans Restroom Signs Blocked

On July 9, 2021, a federal judge blocked a new Tennessee law requiring businesses that allow transgender people to use public restrooms that match their gender to post government-prescribed warning signs.

NOTICE

**THIS FACILITY MAINTAINS A
POLICY OF ALLOWING THE USE OF
RESTROOMS BY EITHER
BIOLOGICAL SEX REGARDLESS OF
THE DESIGNATION ON THE
RESTROOM**

This mock-up is an example of what the required anti-trans signage could look like.

The law would require such businesses to post signs with the word “NOTICE” in yellow on a red background at the top, followed by text stating, “**This facility maintains a policy of allowing the use of restrooms by either biological sex, regardless of the designation on the restroom,**” or face criminal charges.

ACLU-TN and the ACLU filed the lawsuit on behalf of Kye Sayers, owner of Sanctuary Performing Arts LLC, a performing arts venue, cafe and community center in Chattanooga, and Bob Bernstein, owner of Fido, a restaurant in Nashville. Both owners objected to the stigmatizing message they would be required to display and have informal policies that allow customers to determine which restroom is appropriate for them. They have not had any complaints or concerns about their restroom policies.

Forcing businesses to display a targeted, stigmatizing anti-trans message not only violates the First Amendment rights of business owners, it also marginalizes and endangers transgender individuals.

The court’s ruling stops enforcement of the law while our litigation proceeds.



DAs Report to You: A Campaign for District Attorney Transparency

“DAs Report to You: A Campaign for District Attorney Transparency” is ACLU-TN’s new multi-faceted campaign focused on educating Tennesseans about the vast power that their elected district attorneys have in shaping their communities, while advocating for district attorney transparency and accountability.

District attorneys are some of the most powerful people in the criminal legal system. They have discretion over charging and sentencing recommendations, plea bargain negotiations, bail and pre-trial detention recommendations, access to treatment and diversion programs, decisions to charge young people as adults, and much more. They also strongly influence the state legislature, typically supporting more punitive bills and opposing bills that would decrease sentences.

As a result, district attorneys play an outsized role in shaping our state’s incarceration rates, as well as economic inequities and racial disparities in Tennessee’s jails and prisons.

Cont. on page 5

TRAVELING HOPEFULLY

A MESSAGE FROM HEDY WEINBERG, EXECUTIVE DIRECTOR

Imagine if upon turning eighteen years of age, a Tennessee citizen would be able to automatically and permanently exercise their fundamental right to vote. While reaching this moment will take some time, universal voting is our aspirational vision.

Universal voting is the fundamental endorsement of equality and the foundation of democracy. It would eliminate the numerous egregious barriers to accessing the ballot box in Tennessee, such as felony disenfranchisement, photo ID requirements, voter registration limits, excuse-only absentee ballots, voter purges and many others. These harmful voting restrictions curtail the citizenship rights of hundreds of thousands of Tennesseans. They especially target Black and Brown individuals, seniors and students.

Voting rights promote an engaged citizenry and a participatory democracy. It is through voting that citizens enter into the democratic discourse that produces public policy. Currently, Tennessee's egregious voter suppression tactics prevent

marginalized and disenfranchised groups from voicing their interests in the political arena. Voting rights are "preservative of all other rights" and liberties such as freedom of speech, criminal legal reform, police accountability, reproductive rights, LGBTQ equality, fair treatment of immigrants and refugees, religious freedom, education equity and much more.

On the way to actualizing universal voting rights, ACLU-TN remains committed to restoring voting rights to the over 400,000 disenfranchised Tennesseans, one in five of whom are Black. Voter restoration, therefore, would move Tennessee closer to realizing racial justice at the ballot box. We also remain committed to ensuring that eligible voters detained in jail pre-trial or serving misdemeanor sentences are given the opportunity to register and cast their ballot.

On the federal front, there is a pending bill that also would move us in the right direction. The John Lewis Voting Rights Advancement Act would restore

the preclearance regime gutted in the United States Supreme Court decision *Shelby v. Holder* and would ensure access to the ballot box without racial discrimination.

We were very disappointed to recently learn that Tennessee Attorney General Herbert Slatery joined with other attorneys general to oppose the legislation – one more example of politicians engaging in dangerous voter suppression efforts. The bill passed the House on August 24 by a 219 to 212 vote.

Please remind Senators Marsha Blackburn and Bill Hagerty that the history of the Voting Rights Act always has been bipartisan and urge them to vote for the bill when it is introduced in the Senate.

I am grateful that we are on this journey together to create a racially just participatory democracy.

Onward,



Update on Our Annual Fundraiser

While we won't be gathering together for our annual fundraiser in person this fall, our critical work continues on the front lines. Transformative justice is not about one election, lawsuit or piece of legislation, and your ongoing support bolsters our crucial campaigns and initiatives throughout the state. Please consider making an impactful gift this fall (for yourself or in honor of a loved one). Thank you for your generosity and partnership!



Donate using the QR code.



We are delighted to welcome **Communications Associate Breana Staten** to the ACLU-TN team.

Breana graduated from Asbury University with a bachelor's degree in journalism and a minor in public relations. Prior to joining ACLU-TN, her experience includes working at an ABC news station as a production assistant and serving as the vice president of Student Intercultural

ACLU-TN WELCOMES NEW STAFF MEMBER

Programs at Asbury University, where she worked with the administration to create and implement policy and cultivate programming for racial equity.

Through her education and previous work, Breana formed an appreciation for the art of storytelling and the impact it can have when combined with advocacy. She is looking forward to utilizing her passion for written, verbal and visual communication at ACLU-TN.

Shelby County Sheriff Resists Protecting People in Jail from COVID-19

Shelby County Sheriff Floyd Bonner continues to resist improving conditions inside the county jail to protect the people living and working there from COVID-19, despite multiple court orders in the lawsuit we and our partners filed instructing him to do so.

On April 9, 2021, the court approved a consent decree that ACLU-TN and our partners reached with Sheriff Bonner guaranteeing that the jail would implement rigorous monitoring and reporting; additional jail inspections; improved airflow; better protective gear and social distancing; efforts to expedite release for disabled and medically vulnerable people; a vaccination program and other measures to keep people safe from COVID-19.

However, the sheriff's office soon sought to end the agreement, claiming that it had met its requirements, despite a court-appointed independent inspector describing the jail's vaccination program as "completely ineffective," and the equivalent of not having a vaccine program at all." The inspector also found that social distancing was "non-existent" on multiple floors in the jail; that people in the facility "uniformly" reported not receiving any vaccine educational

materials; and that class members detained in the jail are "at an unreasonable risk of serious illness or death."

People detained in the facility report that medical care for those who are ill with COVID-19 is abysmal. One man, who was in isolation due to COVID, described his cellmate losing consciousness due to the virus and officers refusing to enter the pod to assist him. Another person reported, "no medical staff has even stepped foot in my pod," including to check quarantined individuals for symptoms or offer testing or treatment. Detainees also report continual instances of people infected or suspected of being infected with COVID having to endure long delays to get tested or treated, with some nurses actively discouraging such people from getting tested because the jail is running out of room to isolate them.

On August 31, the judge concluded that people in the jail are in "deep peril," and denied the sheriff's efforts to terminate the agreement. The sheriff has since appealed this decision to the 6th Circuit.

We filed this ongoing lawsuit in partnership with the American Civil Liberties Union Foundation; Just City; Paul, Weiss, Rifkind, Wharton & Garrison; and attorneys Brice Timmons and Steve Mulroy, on behalf of people incarcerated at the Shelby County Jail.

Criminal Justice Reform

Cont. from page 1

DAs Report to You: A Campaign for District Attorney Transparency

While district attorneys play an influential role in the criminal legal system, they traditionally have very little transparency and oversight.

Despite district attorneys' significance, in Tennessee's last DA race, which occurred eight years ago, only 22 percent of registered voters cast ballots. With DA elections next year, it's a critical time to learn more about our state's district attorneys.

The campaign website includes an introduction to the role and function of district attorneys; an exploration of the specific powers DAs wield; descriptions of how DAs impact different communities, from women to people of color to LGBTQ people to rural communities and more; a tool that allows people to explore the types of decisions DAs make every

day that impact the lives of thousands of people; an overview of prosecution during the pandemic; information on each district attorney in Tennessee; and an introduction to how DA elections work.

In an effort to promote transparency about district attorney practices, ACLU-TN sent each of Tennessee's 31 district attorneys a survey to assess what information their office collects related to screening and charging, pretrial release, alternative sentencing, plea bargaining, and sentencing. Only one district attorney, Kenneth Baldwin (District 1), responded to the survey. We then sent out open records requests to the 30 other nonresponding DAs. Two district attorneys, John W. Carney Jr. (District 19, until his recent retirement) and Jimmy B. Dunn (District 4) responded to let us know that they do not collect any information relevant to our request. Eventually, on behalf of the DAs who received our request, we also received a reply from the state attorney general's office. They stated that, with the exception of information on caseload, they do not collect any of the information we requested.

With no state data collection or reporting requirements, DAs can essentially operate in the dark, outside of public view, without any pressure to evolve and update their priorities and procedures to reflect best practices and improve outcomes for the community. The minimal data we received makes our case for us – it's past time to remove the cloak of secrecy around district attorneys' activities and ensure that they act transparently and accountably to the voters who elect them.

For more information on this campaign and your elected district attorney, visit <https://bit.ly/tn-das> (case sensitive).

2021 Election Ballot for ACLU-TN At-Large Board Members

The following slate was proposed by the ACLU-TN Board Nominating Committee. Asterisks indicate nominees who are first-time nominees or who did not serve in the previous term. Please place an X before the names of up to 13 nominees. Each name has two boxes beside it: If you have a joint membership, each member can use one box to vote. The envelope in which you mail your ballot must show your name and address so that we can verify your membership. If you wish, you may seal your ballot in an unmarked inner envelope. Please mail this to: ACLU-TN, P.O. Box 120160, Nashville, TN 37212. **Ballots must be postmarked or completed online at <https://bit.ly/21BoardBallot> (case sensitive) by Monday, October 25.** In addition to the candidates listed, the board officers who are selected by the board, come from across the state.

- | | | |
|---|--|---|
| <input type="checkbox"/> Stephanie Ditenhafer | <input type="checkbox"/> Susan L. Kay | <input type="checkbox"/> Elaine Sheng |
| <input type="checkbox"/> Chandra Flint | <input type="checkbox"/> Berthena Nabaa-McKinney | <input type="checkbox"/> Hershell Warren |
| <input type="checkbox"/> Mona Frederick | <input type="checkbox"/> Roosevelt L. Noble | <input type="checkbox"/> Annie B. Williams |
| <input type="checkbox"/> Charles K. Grant | <input type="checkbox"/> Melody Shekari | <input type="checkbox"/> Erika Wollam-Nichols |
| <input type="checkbox"/> Katie Hannah | | |

ACLU-TN Board Candidate Bios

Stephanie Ditenhafer (Nashville), a human resources consultant, was previously senior human resources director for the Nashville Predators and the Nashville Arena. A graduate of Hobart and William Smith Colleges, she assisted a Boston-based equity fund in Warsaw prior to earning an MBA from Vanderbilt. She is on the board of The Schooner Foundation and the Tennessee Innocence Project. Her interests include reproductive freedom, racial justice, immigrants' rights and the death penalty.

Chandra Flint (Nashville) After earning a B.A. in South Asian studies and art history from the University of Wisconsin-Madison, Chandra first worked at the Arthur M. Sackler Gallery of the Smithsonian, then worked in the nonprofit field in central Florida for a number of years. She obtained her law degree from Vanderbilt University Law School in 2004 and practiced at Neal & Harwell until 2019, focusing on family law and assisting with panel federal criminal defense cases. In 2019, Chandra moved to Vanderkooi Law, where she specializes in adoption and family law. Her issues of special interest include LGBTQ equality, criminal justice reform/equality in the justice system (particularly death penalty issues and sentencing reform) and reproductive rights.

Mona Frederick (Nashville) recently retired from the position of executive director of the Robert Penn Warren Center for the Humanities at Vanderbilt University after 31 years. Recently she completed projects that included a digital archive of oral interviews and other materials related to civil rights leaders from research conducted by Robert Penn Warren in 1964 (<http://whospeaks.library.vanderbilt.edu/>). In 2015, she received a Distinguished Alumna Award from the University of North Carolina at Chapel Hill. Her areas of interest include racial justice, criminal justice and privacy.

***Charles K. Grant (Nashville)** is a shareholder at Baker Donelson, where he is a past member of the board of directors. An expert in complex employment litigation, Charles has defended clients in class actions, collective actions, and whistleblower actions under state and federal law. He currently represents Shelby County Public Schools and Metro Nashville Public Schools in their funding lawsuit against the state of Tennessee. He also represents the NAACP in its class action lawsuit to ensure voting rights to individuals with felony convictions. Charles served three years in the United States Air Force. He received his undergraduate degree from the Citadel and his law degree from Washington and Lee University School of Law. He has served on a number of boards, including as the first African American president of the Nashville Bar Association and as president of the Legal Aid Society of Middle Tennessee and the Cumberland. His areas of interest include voting rights, First Amendment issues and equal educational opportunity.

Katie Hannah (Knoxville) is associate director of custom publishing at W. W. Norton & Co. She holds a master's in English from Western Kentucky University (WKU) and a bachelor's from the University of Mississippi. Katie has taught at WKU, the University of Southern Mississippi, and the University of Alabama. She serves as president of the board of Tennessee Stage Company and as a member of the board of ACLU-TN. Katie lives in Knoxville with her musician husband and enjoys hiking, kayaking and teaching fitness classes. She is especially interested in education equity, capital punishment and climate change issues.

Susan L. Kay (Nashville) has held leadership roles with ACLU-TN as president, vice-president and affiliate board representative to the national ACLU. In her non-ACLU life, Susan serves as the associate dean for experiential education and a clinical professor of law at Vanderbilt Law School. At Vanderbilt Law, she teaches a criminal practice clinic as well as courses in criminal law and evidence. She also serves on the board of the Legal Aid Society of Middle Tennessee and the Cumberland and the Council of the ABA Section on Legal Education and Admission to the Bar, and is a past-president of the Clinical Legal Education Association. Her civil rights and civil liberties priorities include criminal justice reform, eliminating the school-to-prison pipeline and reproductive freedom.

Berthena Nabaa-McKinney, Ed.D. (Nashville) is the CEO of Nabaa Consulting, LLC, an educational consulting firm specializing in school improvement and turnaround work for schools and districts across the nation. She served as a former board member of the Metro Nashville School Board. Berthena has over 25 years of experience in K-12 education, including serving as a teacher and school principal. In addition, she has led school and district accreditation teams across Tennessee. She received her doctorate in education from Trevecca Nazarene University, and Master of Education in administration & supervision from Tennessee State University. She serves on the boards of MNPS Steam Advisory Council, MNPS Parent Advisory Council (PAC), PENCIL, L'Evate (formerly Leadership Donelson-Hermitage), and the MuslimARC (Anti-Racism Collaborative). Berthena is very involved in interfaith collaborations that bring communities of faith together and work to dispel negative rhetoric about Islam and Muslims. Her interests include educational equity, religious freedom, and racial and social justice reform.

Rosevelt L. Noble (Nashville) is the assistant dean of residential colleges and the director of the Bishop Joseph Johnson Black Cultural Center at Vanderbilt University. Prior to this, he was the director of training providers for the Tennessee Department of Labor and Workforce Development and the director of the Workforce Investment Act with the Tennessee Higher Education Commission. Rosevelt has an extensive background in statistical data analysis and has worked as a research consultant on numerous projects in the public, private and legal sectors concerning prison violence, the death penalty and other areas of social justice. He received his B.A. and Ph.D. from Vanderbilt and resides in Nashville with his wife and two children. His areas of interest include policing, prison re-entry, privacy and racial profiling.

Melody Shekari (Chattanooga) is a lawyer, community advocate and proud daughter of immigrants. She earned a Bachelor of Science in economics from Bentley University, a master's in public administration from the University of Washington and a J.D. from the University of Southern California. She has also traveled to over 45 countries and received fellowships to work in local government and study international genocide and legal institutions. After completing her education, Melody returned home to Chattanooga to serve her community. She has run for political office and is active in a number of local initiatives because she believes in helping others, supporting the community and solving problems. Her background and experience include positions in the business, government and non-profit sectors. Melody's current work and volunteer priorities include criminal justice reform, support for public education, job creation and workforce development, and immigrants' rights.

Elaine Sheng (Memphis) began interning at ACLU-MS in Jackson, Mississippi while in law school. Reviewing potential cases and working closely with the local Planned Parenthood affiliate led to her interest in reproductive rights and healthcare. It was also during this time that she worked with the Mississippi Capital Defense Resource Center representing inmates on death row with their appeals. Elaine is an attorney at Morgan & Morgan PLC in Memphis. Her practice includes representing victims of profiling based on race and religion and she has handled 42 USC 1983 cases representing families of victims whose civil rights were violated by law enforcement. This time of change in the nation has led Elaine back to ACLU-TN, where she hopes to contribute to the areas of reproductive rights, religious freedom and LGBTQ rights.

Hershell Warren (Nashville) is a consultant for community-based organizations after serving twelve years in the administrations of three Metro Nashville mayors. Hershell was senior advisor to Mayor Karl Dean and Mayor Megan Barry, and then worked with Mayor David Briley's Office of Neighborhoods and Community Engagement to empower neighborhoods and communities. He also served as the director of public policy and governmental affairs for Meharry Medical College. Hershell is a past president of the Tennessee Association of Community Health Centers, and a former board member and chair of the Nashville Prevention Partnership. He served on the Health Care Task Force of the Tennessee Black Caucus of State Legislators and worked on health care initiatives for the Office of Minority Health and the Black Health Care Commission. Hershell graduated from Fisk University with a Bachelor of Health Care Administration and received his MBA and J.D. from Vanderbilt University. He is interested in education equity, criminal justice reform and freedom of speech.

Annie B. Williams (Nashville) is on the guidance counseling team at Montgomery Bell Academy, where she coordinates student community service and works on other student leadership programming. She has taught U.S. government and economics; prior to this, she was a trial lawyer. Annie earned a bachelor's from Rhodes College, where she was elected to Phi Beta Kappa, and a J.D. from Columbia University, where she was a Stone Scholar. She has served on the boards of Susan G. Komen (Nashville chapter), the Tennessee Association for Justice and Oasis Center, and on the New Lawyer Division of the American Association for Justice. Her number one job is raising her daughter. Her interests include racial justice, voting rights, LGBTQ equality and criminal justice issues.

Erika Wollam-Nichols (Nashville) is chief operations officer of The Bluebird Cafe. Previously she was director of development for the Nashville Songwriters Association International and co-director of the Tin Pan South Songwriters Festival. Prior to that, she was vice president of marketing at the Country Music Hall of Fame and traveled with the First Amendment Center's Freedom Sings program. She has an undergraduate degree in philosophy from Belmont and an MFA from Vermont College of Fine Arts. Her interests include freedom of expression, privacy and equal treatment under the law.



Tennessee

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Please remember to give generously when you can. ACLU-TN receives contributions by mail and online, and we accept gifts of stock, IRA and other retirement assets, and mutual fund shares.

We also offer methods to give via your will, trust or life insurance policy. For more information, please contact Director of Development Sarah Howard at (615) 320-7142 x 308 or showard@aclu-tn.org.

Thank you for your partnership. We are in this together!