

The Vigil

Newsletter of the American Civil Liberties Union of Tennessee

Summer 2023



The Killing of Tyre Nichols & Police Reform

The world watched in horror last January after the Memphis Police Department released body camera footage of police officers brutally beating motorist Tyre Nichols after a traffic stop. Nichols, 29, died three days later. Five former Memphis police officers have been charged with second degree murder and other charges for their role in Mr. Nichols' death. Tyre Nichols should be alive today. No one deserves the kind of abuse that Mr. Nichols suffered. Our current system of policing does not value all lives equally. In Tennessee, Black people account for **17** percent of the population, but over **47** percent of the people killed by police.

It is past time to end the disparate, ineffective and violent policing of communities of color, and the constant surveillance, targeting and harassment of Black and Brown people. We must stop relying on police to respond to issues related to poverty and disinvestment, which leads to more frequent, unnecessary and aggressive actions by law enforcement toward community members. It's time for us to reimagine the role of police to be far narrower, while investing in supportive, community-based solutions for public safety independent of the criminal legal system.

In the wake of Mr. Nichols' death, we joined with our partners at Decarcerate Memphis, Official Black Lives Matter Chapter, the Justice Safety Alliance and many others to support local Memphis ordinances that would end certain pretextual stops, increase police data transparency, begin to strengthen community oversight of police actions, end the use of unmarked vehicles for traffic stops, establish review processes for police training, and create an independent review process for use of force incidents, all of which eventually passed.

While we celebrate these steps forward, ACLU-TN continues to follow the lead of our community partners in Memphis as we fight for a new approach to policing and the criminal legal system.



Protecting Gender-Affirming Care for Trans Youth

On April 20, along with the ACLU, Akin Gump Strauss Hauer & Feld LLP, and Lambda Legal, we sued to block Tennessee's recently enacted discriminatory ban on medically necessary gender-affirming care for transgender youth, asking the court to issue an immediate order to prevent the law from going into effect on July 1, 2023.

Under the new law, trans youth in Tennessee already receiving gender-affirming healthcare as of July 1, 2023 will be forced to lose access to such care after March 31, 2024. Youth who are not receiving medical care by July 1, 2023 will be unable to begin receiving care in Tennessee.

The U.S. Department of Justice recently joined our lawsuit, alleging that the ban violates the Fourteenth Amendment's Equal Protection Clause.

The brave families and physician filing this lawsuit are fighting for trans youth despite being targeted by hateful politicians and media personalities. For them, it's not about politics – it's about the freedom to access vital, life-saving healthcare for their families and patients. We are proud to be by their side and want all trans youth in Tennessee to know that we see them and will always defend their rights.

2023 Legislative Review

Each year we are committed to defending against attacks and advancing legislation to uphold Tennesseans' civil liberties and civil rights. January 10 marked the beginning of Tennessee's 2023 legislative session and over the past few months, we've witnessed legislators vote on key issues that both diminish and expand Tennesseans' civil rights and civil liberties.

The legislative initiatives we pursued this year include:

Criminal Law Reform & Policing

Alongside our partners, this session we continued to advocate for a more just, equitable criminal justice system in Tennessee.

Despite many legislators engaging in extreme “tough on crime” posturing, we were able to defeat a harmful bill that would have greatly **expanded eligibility for “three strike” life sentences** to include certain non-violent offenses (SB 1193/HB 1030). ACLU-TN will continue to fight back against punitive sentencing bills that fuel mass incarceration and fail to make communities safer.

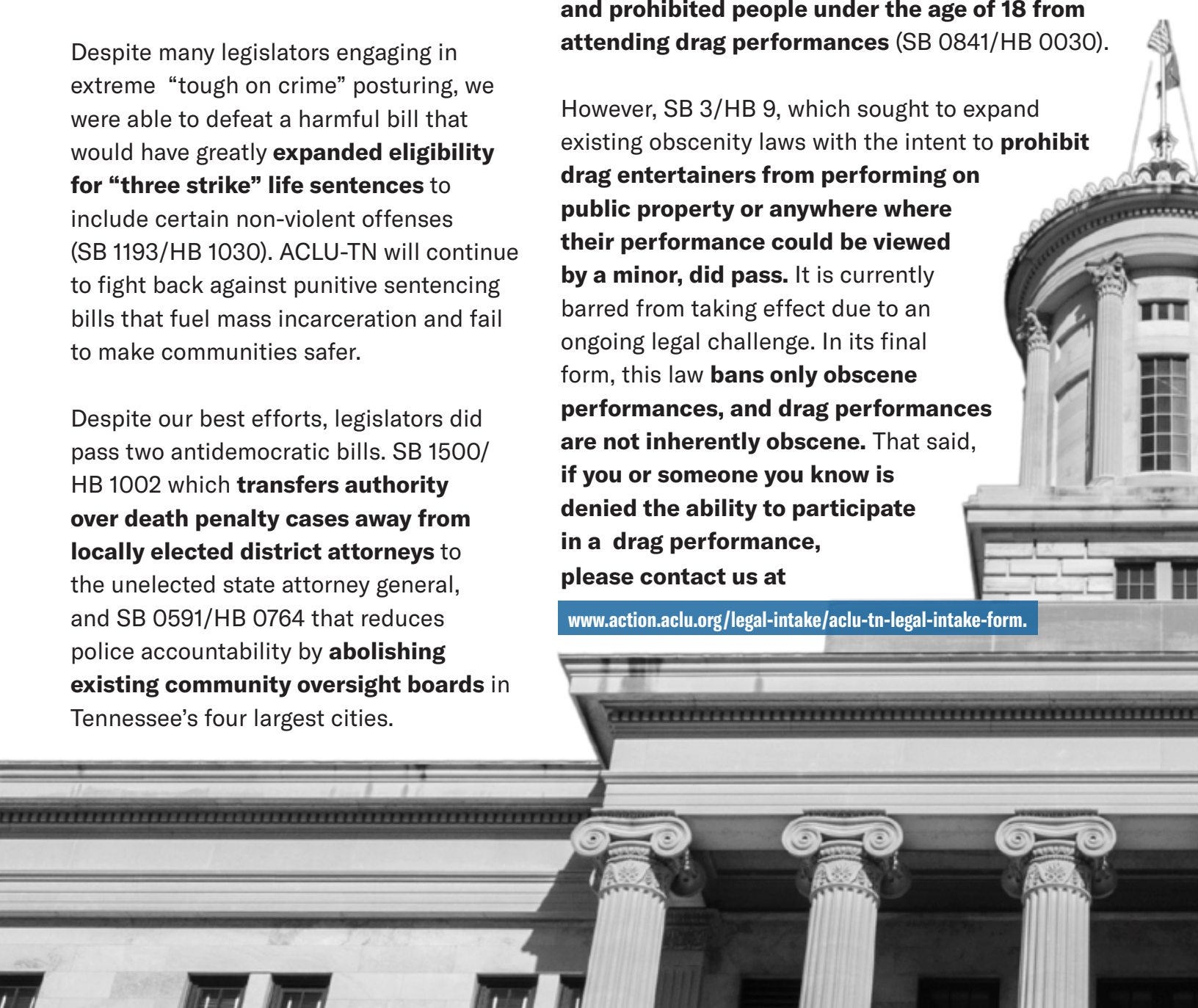
Despite our best efforts, legislators did pass two antidemocratic bills. SB 1500/HB 1002 which **transfers authority over death penalty cases away from locally elected district attorneys** to the unelected state attorney general, and SB 0591/HB 0764 that reduces police accountability by **abolishing existing community oversight boards** in Tennessee's four largest cities.

Drag Performances

Dance, fashion, and music – essential components of a drag performance – are all protected by the First Amendment. Yet, legislators proposed two different bills aimed at restricting drag performances and chilling free speech. We helped beat back legislation which sought to **require drag performers to obtain a permit from the adult-oriented establishment board and prohibited people under the age of 18 from attending drag performances** (SB 0841/HB 0030).

However, SB 3/HB 9, which sought to expand existing obscenity laws with the intent to **prohibit drag entertainers from performing on public property or anywhere where their performance could be viewed by a minor, did pass**. It is currently barred from taking effect due to an ongoing legal challenge. In its final form, this law **bans only obscene performances, and drag performances are not inherently obscene**. That said, **if you or someone you know is denied the ability to participate in a drag performance, please contact us at**

www.action.aclu.org/legal-intake/aclu-tn-legal-intake-form.



Free Speech & Education Equity

This session, ACLU-TN continued to challenge backwards legislation attacking diversity and inclusion initiatives, including bills **prohibiting diversity, equity and inclusion initiatives in public universities** (SB 817/HB 1376) and **banning implicit bias trainings in public school systems** (SB 0102/HB 0158). Unfortunately, both bills passed, despite our strong objections. We were pleased, however, that another bill we supported, SB 0872/HB 0736, passed with broad bipartisan support. This bill establishes **academic standards regarding how the civil rights movement** is taught in high school social studies curriculums.

Reproductive Justice

A recent poll published by Vanderbilt University showed that a majority of Tennesseans support accessible abortion care. We advocated for **SB 762/HB 829, which would fully restore access to abortion in Tennessee**, while acknowledging the challenges this bill would face. Our lawmakers should be working to build and maintain systems that enable Tennessee families to stay safe, supported, and together. Instead they prevented this legislation from passing and preserved systems that create further undue burdens for folks who already face systemic barriers to reproductive healthcare, including people of color, people who are immigrants, people living in rural areas, young people, and people with limited incomes.

Trans Justice

Medical and mental health professionals agree that gender-affirming care is safe, effective, and necessary. Nevertheless, legislators continued their pattern of prioritizing harmful anti-trans legislation this session by passing an **outright ban on medically necessary, gender-affirming care for trans youth** (SB 1/HB 1). ACLU-TN, alongside ACLU, Lambda Legal and Akin Gump Strauss Hauer & Feld LLP, swiftly filed a lawsuit challenging this unconstitutional law. The United States Department of Justice has joined our lawsuit, and litigation remains ongoing (see page 1).

We also opposed a hateful bill that sought to permit **discrimination against trans children at summer camps** (SB 1044/HB 1379), which ultimately failed. Unfortunately, despite our fierce opposition, legislators passed several other regressive, anti-trans pieces of legislation, including bills that **define a person's "sex" solely by their original birth certificate** (SB 1440/HB 0239) and that protect teachers who choose to **misgender trans students** from accountability (SB 0466/HB 1269).

[Legislative review continued on page. 4](#)



Youth & Students' Rights

In Tennessee, officials are authorized by law to charge families of young people involved in the justice system for the costs of services, regardless of the family's income level. Fees and fines could force families to choose between paying these court imposed costs or meeting basic needs, which would harm low-income families, especially those in rural Tennessee, and disproportionately affect Black, Brown, and Indigenous youth, who are overrepresented in the justice system.

Youth fee and fine repeal has gained national

momentum and widespread, bipartisan support. This session, we supported

SB 889/HB 749, which sought to end the harmful practice of **assessing fees and fines to youth in the justice system who can't afford them**. Although this bill did not pass, ACLU-TN worked alongside a broad-based youth justice advocacy coalition to defeat several pieces of legislation that would have harmed Tennessee's youth. This included bills that would have led to the **transfer of thousands of juvenile cases to adult criminal courts** (SB 1159/HB 1029), making it harder for youth to receive the services they need, and allowed for the extreme **use of mechanical restraints on students receiving special education services in public schools** (SB 141/HB 127).

TAKE ACTION

Despite an uphill battle against dangerous thinking and hateful rhetoric, our supporters contacted legislators thousands of times to advocate on a range of issues. ACLU-TN is committed to continue being a constant presence at the state capitol as we work to advance legislation that expands and protects our civil liberties and to fight against bills that infringe on our freedoms.



Your efforts make a difference, so please join us in holding those in power accountable. To stay up to date on the work we've done and continue to do at the Tennessee legislature, visit our Legislative Action Center at www.aclu-tn.org/category/take-action.

DONATE

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. Thank you for your generosity and partnership!

www.aclu-tn.org/give/

TRAVELING HOPEFULLY

“... to travel hopefully is better than to arrive. And the true reward is to labor. I have travelled hopefully for all these years. Some day, some time...the goal is clear...a tolerable world of peace, order, and justice.”

- Roger Baldwin, ACLU Founder & Director

As early as last summer, some state legislators engaged in a barrage of anti-LGBTQ+ commentary, which laid the groundwork for what many saw as one of the worst legislative sessions to date. This later manifested in the introduction of multiple bills that would harm LGBTQ+ people across the state. Lawmakers continued to spread discriminatory narratives throughout the session as they pushed legislation targeting and attacking not only the LGBTQ+ community, but Black and Brown Tennesseans, trans youth, students with disabilities, teachers, librarians, drag performers, and medical providers.

Politicians then further reinforced their attacks by undermining democracy through expelling Rep. Justin Jones and Rep. Justin Pearson without due process for amplifying the voices of their constituents in a peaceful, non-violent manner. Expulsion is an extreme measure that is used very infrequently in our state and our country because it strips voters of representation by the people they elected. The expulsion process laid bare the extremes those in power in our state will go to in order to preserve the continued legacy of white supremacy in Tennessee, manipulate the legislative system to consolidate their power, and silence and suppress dissenting voices.

While some politicians seem hellbent on making Tennessee a discriminatory and unwelcoming place for so many of us and our families, friends, and neighbors, we also saw many things that gave us hope these past few months. Thousands of Tennesseans took to the streets and came to the Capitol to speak out about the issues they care about. Time and time again we joined with partner organizations from around the state to lobby, advocate, hold educational events, mobilize, lift up the voices of impacted people, and, when necessary, litigate. In fact, we are currently challenging the new law banning access to gender-affirming care for youth, as described on page 1.

One of our board members, David Taylor, owner of PLAY Nashville, testifying at the state Capitol against an anti-drag bill.

To inform our work, we and our partners are actively listening to the stories of those most directly impacted by injustice. We are proactively working to not only protect but advance the rights of Tennesseans across the state by strategically utilizing our mix of tactics – community engagement, lobbying, legislation, litigation, and public education. While we have a lot of work to do, the ACLU-TN team is dedicated to fighting for a freer and more just Tennessee, and we are encouraged to continue this fight because of the outpouring of support and solidarity from people committed to creating a better Tennessee for their families and communities.

We would not be able to do this work without our supporters standing alongside us. Thank you for joining with us to fight for the civil rights and civil liberties of all Tennesseans.



Credit: Ariel Cobbert

The Tennessee Three in Memphis right before Rep. Justin Pearson's reinstatement to the Tennessee House.



Kathy

Kathy Sinback (she, her, hers)
ACLU of Tennessee, Executive Director



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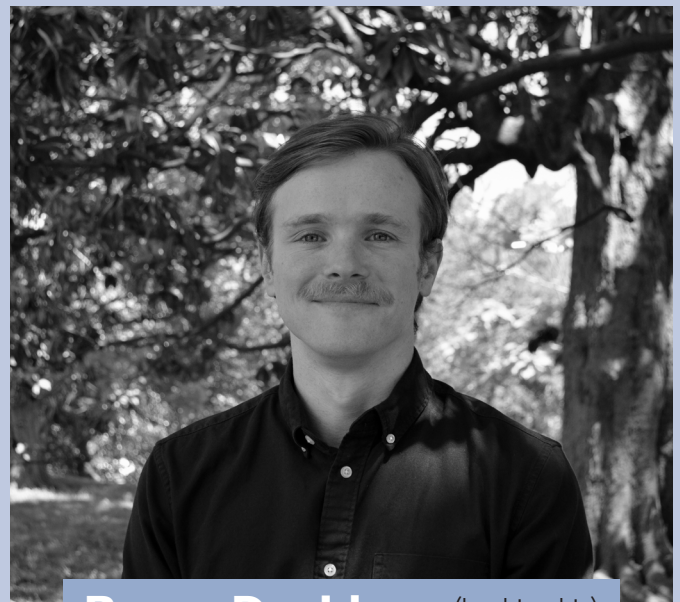
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ACLU of Tennessee

ACLU-TN Welcomes New Policy Director

ACLU-TN welcomes **Bryan Davidson** as policy director to lead the organization’s legislative and policy advocacy program at the state and local levels. Prior to joining ACLU-TN, Bryan served in the Tennessee Department of Environment and Conservation’s Office of Policy and Planning, where he specialized in environmental justice and Title VI compliance. A lifelong Tennessean, Bryan grew up in Memphis before moving to Nashville to attend Belmont University. After spending several years as a touring musician, Bryan earned his law degree from Vanderbilt Law School, where his course work and professional experiences focused on public-interest policy advocacy. Bryan states,



Bryan Davidson (he, him, his)

“The opportunity to advocate for fairer, equitable policies in my home state is a dream come true for me, and I am incredibly excited to get to work fighting for racial justice, LGBTQ+ equality, reproductive freedom, voting rights, criminal justice reform and so much more.”