

The Vigil

Newsletter of the American Civil Liberties Union of Tennessee

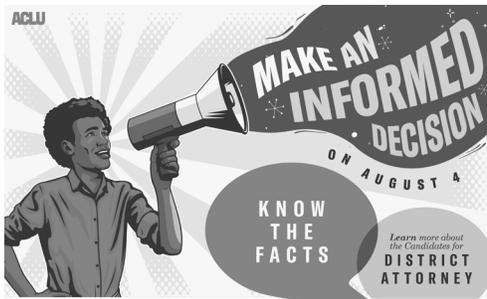
Fall 2022

Educating Voters About the Power of DAs

District attorneys are the most powerful people in the criminal legal system. During the statewide DA elections in August, we educated voters about the power that DAs hold through flyers, e-blasts, social media quizzes and more.

In Shelby County, we worked closely with local partners and launched a candidate questionnaire, website, billboards and digital ads that garnered over 2.5 million impressions. Our national office also conducted polling and sent four mailers that reached 90,000 voters.

You can find our social media campaign on Instagram (@aclu_tennessee), Twitter (@aclutn), and Facebook (@ACLUTN).



For more, visit our “DAs Report to You” website: bit.ly/tn-das

TRANScend Tennessee

We are excited to share that we recently launch the TRANScend Tennessee campaign. This campaign educates people about being trans, advocates for trans justice on the state and local level, empowers and uplifts trans voices, and combats dangerous narratives that harm the transgender community in Tennessee.

“With its combination of legal advocacy, lobbying and public education, this program supports the trans community in Tennessee in a very unique way,” said **Henry Seaton, trans justice advocate**. “I’m excited to see how powerful this initiative has already been to others, and look forward to seeing its continued impact.”

The launch of TRANScend Tennessee comes at a time when trans people face growing attacks at the legislature and in their daily lives, so your participation is crucial. At our website, bit.ly/transcend-tn, you can find:

Protect Abortion in Tennessee

On June 24, 2022, the U.S. Supreme Court issued a shameful ruling overturning *Roe v. Wade* – the landmark decision recognizing the constitutional right to abortion nearly 50 years ago.

Under Tennessee law, it is now a Class C felony for any person to perform or attempt to perform an abortion in the state. Class C felonies carry a maximum penalty of 15 years in prison. There are no exceptions in the law for rape, incest or to save the life of the pregnant person. However, the law does allow for a person charged with a crime under this law to use certain narrow circumstances as their defense in court. However, such circumstances do not prevent them from being charged with a crime in the first place.

People seeking information about abortion care can find resources at abortionfinder.org or www.ineedana.com/.

This isn’t over. We at ACLU-TN are committed to using the full force of the organization in the streets, at the capitol, and at the ballot box in the fight to restore abortion rights – and we hope you will join us.

- Information on trans rights and local resources in Tennessee.
- Free trainings we offer, including Trans 101, legislative advocacy, and more.
- Resources on being a good ally and pronouns.

If you are part of a business, community group, educational institution, religious community, LGBTQ organization, or other group that would like to host a TRANScend Tennessee speaker, please contact us at bit.ly/aclu-tn-speaker-request.

Together, we will not only end the attacks on trans and nonbinary people, but also begin uplifting trans joy and advancing trans rights in our state.

TRAVELING HOPEFULLY

A PARTING MESSAGE FROM FORMER
ACLU-TN EXECUTIVE DIRECTOR
Hedy Weinberg served as ACLU-TN executive
director from 1984 - July 2022

“To Dreams: wild and imaginative; and to the [people] who dare to dream them.”

This dedication in my parents’ book “Passport to Utopia” guided me during my 37+ years at ACLU-TN. It was a privilege and honor to lead ACLU-TN in the pursuit of fairness, freedom, justice and equity.

Throughout my tenure, Tennessee remained a contentious and challenging political arena for civil liberties and civil rights. My inspiration was drawn from the history of the Highlander Center’s labor and civil rights organizing, the Nashville college-student lunch counter sit-ins, and the Memphis sanitation workers strike. This history sustained me through the many battles we have fought, which include: voter suppression, government surveillance, injustice in the criminal legal system, horrific acts of police brutality, LGBTQ attacks, Islamophobia, government-sponsored religion, book banning, and censorship of political protest. Especially poignant is our recent success in federal court stopping the Memphis police department from spying on political protestors in violation of ACLU-TN’s 1978 consent decree.

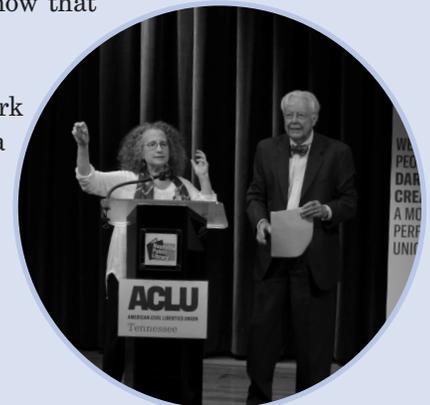


When I think about the last 37+ years, I think about the work we do – day in and day out in the community, in the courtroom, and at the capitol translating the promises of the Bill of Rights into reality for all Tennesseans. Etched in my mind are the juveniles in detention centers held in solitary confinement for 23 hours a day; the Tennesseans with felony convictions who can’t restore their voting rights; the transgender students prohibited from joining their schools’ athletic teams that match their gender identity; our Coalition for Sensible Justice that brought together diverse partners to reform Tennessee’s criminal legal system; our community engagement, storytelling and public education campaign on rural bail practices; and the launch of TRANScend Tennessee, our statewide transgender justice education and advocacy initiative.

The last few years and months remind me that our democracy is more fragile than I could have ever imagined, and the current challenges are enormous: the draconian voter suppression practices and policies; the prohibition of the teaching of race and racism in K-12 public schools; the Tennessee abortion ban triggered by SCOTUS’s *Dobbs* decision; and the implementation of the school voucher program following the Tennessee Supreme Court decision - to name just a few.

My parting ask as the ACLU-TN executive director is that you take up the challenge – hit the streets, register folks to vote and drive them to the polls on Election Day, and let your elected officials know that you are a voter for whom fairness and freedom matter.

I am still “traveling hopefully” as ACLU Founder Roger Baldwin often said. The work of the ACLU is work of hope – hope that America can live up to its promise to be a more just and democratic place. So, as I turn to my next chapter, what I will carry most with me is a sense of continued optimism. This optimism is rooted in the knowledge that so many – our awesome staff and board, our courageous clients, our dedicated members and volunteers, our generous donors and inspiring partner organizations and activists across the state – will continue to carry the torch and the fight for fairness and freedom, justice and equity.



With gratitude and in warm solidarity,

Hedy

Weinberg was named ACLU-TN executive director in 1984. Under Weinberg's leadership, the organization grew from two to twelve staff, added several departments, expanded its geographic footprint, grew in financial strength, and expanded its base to over 80 thousand subscribers and followers, and 11 thousand members and counting.

During Weinberg's tenure, ACLU-TN became Tennessee's leading statewide organization in the fight for civil liberties and civil rights. Pivotal moments include:

Leading the opposition to the privatization of the Tennessee prison system, in partnership with AFSCME (1985).

Spearheading the successful defeat of legislation to chill the teaching of evolution in public schools (1993).

Challenging the state abortion statute and establishing a Tennessee constitutional right to privacy (2000).

Launching an anti-racial profiling campaign that resulted in data collection by law enforcement agencies (2001).

Challenging Tennessee's "Marriage Protection Amendment" defining marriage as between a man and a woman (2006).

Successfully suing on behalf of high school students to stop Knox and Davidson County public schools from using filters to block websites containing information about LGBTQ issues while allowing access to homophobic websites (2009).

Co-founding the "Nashville for All of Us" coalition, which led to the defeat of the city's English-only ballot initiative (2009).

Successfully challenging a law undermining voter registration (2019).

Blocking Tennessee's sweeping abortion ban and medically unsound "abortion reversal" laws (2020).

Launching a community engagement, storytelling and public education campaign on rural bail practices (2021).

Challenging laws excluding transgender athletes from school teams and requiring businesses to post anti-trans restroom signs (2021).

Establishing a statewide transgender justice education and advocacy initiative (2022).

Filing a series of successful lawsuits to stop religious activities in public schools and remove the Ten Commandments posted in local courthouses (2002-2020).

Leading a legislative campaign to establish "sexual orientation" as a protected category in state law for the first time in Tennessee (2003).

Launching a multi-faceted campaign challenging financial requirements as a prerequisite to voter restoration for individuals with felony convictions (2006 - 2008).

Mobilizing with members of the Muslim community to defeat anti-Muslim initiatives at the local and state levels, including defeating an Islamophobic "anti-sharia" bill (2011).

Securing a settlement in a lawsuit with ICE and Metro Nashville police, who had conducted an illegal warrantless raid on an apartment complex home to mostly Latino residents (2015).

Launching an online, bilingual "know your rights" resource center for immigrants (2015).

Proving in federal court that the Memphis police department violated a 1978 consent decree secured by ACLU-TN by, once again, spying on political protestors (2018).

FALL FUNDRAISING

Visit aclu-tn.org to make a gift and/or buy event tickets/sponsorships!

Please join us for an empowering evening of music and celebration as we **honor former Executive Director Hedy Weinberg**, welcome **new Executive Director Kathy Sinback**, and hear performances by the **Black Opry** and Grammy Award Winner **Don Henry**.

SAVE THE DATE:

November 10, 2022 | 6 p.m. - 8 p.m. CT | Nashville

And please think of us when making your philanthropic contributions this fall. Your impactful support drives our critical work forward!

“Under [Hedy's] vision and steady leadership, this organization has grown into a strategic, strong, multi-faceted powerhouse that never backs down from a challenge and always moves us ahead in the fight for justice and equity,” said **ACLU-TN Board Chair Paula Williams**. “On behalf of the board of directors and the staff, I want to acknowledge what a tremendous impact [she] has had on the state of Tennessee and how much she will be missed.”

Legal Updates



Anti-Trans Restroom Sign Law Struck Down

A Tennessee law that required businesses and other entities that allow transgender people to use the public restroom that matches their gender to post a government-prescribed warning sign, was struck down by a federal court.



This mock-up is an example of what the required anti-trans signage would have looked like.

The lawsuit was filed on behalf of **Bob Bernstein, owner of Fido**, who objected to the stigmatizing message that would have been required by this law. Fido has informal policies that allow customers to determine which restroom is appropriate for them and has not had any complaints or concerns about their restroom policies.

The court's decision recognized that "It would do a disservice to the First Amendment to judge the Act for anything other than what it is: a brazen attempt to single out trans-inclusive establishments and force them to parrot a message that they reasonably believe would sow fear and misunderstanding about the very transgender Tennesseans whom those establishments are trying to provide with some semblance of a safe and welcoming environment."

Court Order Limiting Memphis Police Surveillance Remains

In 2020, a federal judge issued modifications to a 1978 court order that prohibited the Memphis government from monitoring the constitutionally protected political

activities of residents. The modifications considered new technology that did not exist when the original court order was drafted in 1978.

After this ruling, the city filed a Notice of Appeal, raising issues regarding ACLU-TN's standing to enforce the decree and challenging the court's rejection of certain modifications proposed by the city.

Days prior to the oral argument, the appeals were dismissed as untimely, thus canceling the oral argument and allowing the modifications to the court order to remain.

Challenging Tennessee's Voucher Program

On September 19, we and our partners were back in court on behalf of Memphis and Nashville parents and community members to challenge Tennessee's voucher program. This unconstitutional program would redistribute hundreds of millions of tax dollars from Nashville and Memphis public schools to private schools.

Private schools often do not adequately serve students with disabilities or students from families with limited incomes. Additionally, students attending private schools are not afforded the same rights and protections they have in public schools, including First Amendment protections, due process, and other rights. Voucher programs can also violate religious freedom by funding religious education with taxpayer funds.

Our lawsuit, initially filed in 2020, was placed on hold by the court while a lawsuit filed by Shelby and Davidson Counties challenging the law proceeded. The Tennessee Supreme Court recently ruled in the counties' lawsuit that the voucher program does not violate the Home Rule Amendment of the state constitution, which prohibits the state from passing laws that apply only to certain counties. However, additional

claims remain. Our lawsuit has now been consolidated with the counties,' and is pending in federal court.

Bail Reform in Shelby County

Shelby County has created a new bail process that will make the county's system one of the fairest in the nation. The new system includes creation of a new bail hearing courtroom; individualized bail hearings with counsel no later than three days after a person's arrest;

examination of a person's financial circumstances prior to any decision; court reminders; and imposition of secured money bail only as a last resort. The system also allows judges to continue to make individualized decisions in every case before them, after hearing from both the government and the accused person's defense counsel.

Under the county's prior pretrial system, a person could be held for weeks or longer without a bail hearing with counsel, and most people never [\(cont'd on page 8\)](#)



Staff Attorney **Jeff Preptit** comes to ACLU-TN after close to 3 years of work at the Public Defender's Office in Nashville, Tennessee. Before going to law school, Jeff worked with the National Consortium for the Study of Terrorism and Responses to Terrorism as an open-source intelligence analyst. During his first year of law school, Jeff co-founded the Charlotte Community Coalition and the Heal Charlotte Initiative in the wake of the shooting death of Keith Lamont Scott.

Jeff has a fierce dedication to serving and working to improve his community, and he brings a long history of service and lived experience to the work of ACLU-TN. Jeff adds,

"I am so excited to continue the legacy of fighting to ensure that we have a fairer society that protects the rights of everyone in our communities."



Lucas Cameron-Vaughn joined ACLU-TN in July as a staff attorney specializing in providing legal assistance to transgender, gender nonconforming, nonbinary and intersex individuals in Tennessee, with a focus on students in Tennessee public schools; individuals in foster care, prisons, jails, and juvenile detention facilities; and those facing employment discrimination.

Lucas most recently served as a managing attorney to the chancellors of the Chancery Court of Tennessee for the Thirtieth Judicial District at Memphis, where he supervised judicial law clerks and court operations for three trial courts. Prior to court service, Lucas represented folks who are trans in civil

rights, employment, criminal and immigration proceedings. Lucas clerked for ACLU-TN while receiving his law degree from the University of Memphis. After law school, Lucas completed a juvenile justice clinical teaching fellowship where he collaborated with ACLU-TN to advocate for children being held in solitary confinement. Lucas states, "Tennesseans who are transgender should enjoy the same freedoms and protections that are promised to all people through the constitutions and laws of the United States and Tennessee. I look forward to undertaking the important work of standing up and fighting for the beautiful and diverse trans community in our state."

Building Our Legal Team

In the past few months, we have been building up the ACLU-TN legal team.



Our former staff attorney, **Stella Yarbrough**, has stepped into the role of legal director.

"I am looking forward to building a proactive and responsive legal team that will fight for constitutional bail-setting and pretrial detention practices across the state, defend LGBTQ rights in Tennessee, protect the First Amendment rights of students, and advance voting rights," said Yarbrough. "There is certainly a lot to do, but I look forward to undertaking this important work." **5**

Bail Reform in Shelby County (cont'd)

had a bail hearing at all; ability to pay was not considered when bail was set, leaving those who could not afford to pay detained indefinitely, even if they were not a flight or safety risk, while those who faced the same charges but could afford to pay money bail were freed until trial.

While this victory couldn't have been created without the county commission and general session judges, these reforms were spurred by the actions and negotiating of ACLU, ACLU-TN, Just City, The Wharton Law Firm, Stand for Children, and Black Lives Matter Official Memphis Chapter when we reached out to county officials about the need for a more transparent bail system that provided constitutional protections to every person who is detained.

The new bail system is expected to go into full effect by February 2023.

2022 LEGISLATIVE SESSION IN REVIEW

As we prepare for the upcoming legislative session, we wanted to share a brief overview of the last one. Last spring at the 112th Tennessee General Assembly, we defended against attacks and advanced legislation to uphold Tennesseans' civil liberties and civil rights. We had a strong team at the legislature – bigger than ever before – meeting with legislators, testifying at hearings, drafting bills, and providing research and resources for lawmakers.

LGBTQ Equality

Tennessee's lawmakers have staked out extreme, regressive positions on LGBTQ issues and especially targeted transgender Tennesseans. But led by our trans justice advocate, Henry Seaton, our advocacy helped halt some of the worst anti-trans legislation proposed this session, including bills that would have prevented trans kids from accessing **crucial, life-saving care** (SB 2696/HB 2835); protected teachers who choose to **misgender trans students** from accountability (SB 2777/HB 2633); and **banned school textbooks** that address or "normalize" LGBTQ issues (SB 1216/HB 800).

Despite these major victories, some anti-trans legislation did pass, including a bill that withholds funds from districts that choose to **affirm trans athletes** (SB 1861/HB 1895) and a bill that bans trans women from participating in **intercollegiate sports** (SB 2153/HB 2316).

Our defeat of some of the most hateful anti-trans bills is a result of many legislators beginning to shift their perspectives on LGBTQ issues. The pressure and presence from trans advocates and allies is making a difference. We will continue to demand that LGBTQ people in Tennessee be treated with humanity and respect by lawmakers.

Free Speech and Censorship in Schools

Lawmakers continued their efforts to censor discussion and books in Tennessee's classrooms and libraries this year.

We helped defeat one of the worst bills, SB 1944/HB 1944, which would have allowed any parent to enforce their definition of "**obscenity**" on a whole school district and force the removal of books from library shelves for at least 30 days.

However, legislators passed bills that force schools to develop **removal procedures for books** deemed "inappropriate" (SB 2407/HB 2154), prevent student access to a range of **content on school computers** (SB 2292/HB 2454), allow the state textbook commission to categorically **ban books deemed "inappropriate"** across the state based on an appeal from one parent in one district (SB 2247/HB 2666), and chill expression by **restricting discussion of a broad range of concepts related to race and gender** on college campuses (SB 2290/HB 2670).

We will never stop fighting back against government censorship.

BY THE NUMBERS

6,000+ messages to lawmakers from ACLU-TN supporters

228 bills ACLU-TN tracked in 112th TGA

122 bills ACLU-TN supported in 112th TGA

48 bills ACLU-TN opposed during 112th TGA

6 ACLU-TN lobbyists and advocates present in the statehouse

Criminal Law Reform and Policing

Alongside our partners, ACLU-TN continued the fight for a more humane and just criminal legal system.

We successfully beat back a bill that would have severely restricted public **access to body camera and in-car camera footage** (SB 1999/HB 2586); laid crucial ground work with partners for a bill that would have ended **fee and fine assessments for juveniles** and their families (SB 2172/HB 2307), and succeeded in eliminating one of the most harmful aspects of the law that allows suspension of licenses for “unsatisfactory academic progress” (SB 2176/HB 2037).

Unfortunately, this session was also marred by major steps backward on criminal justice, including passage of a so-called “**truth-in-sentencing**” law that forces certain people to serve 100 percent of their sentence without the possibility of sentence reduction for good behavior or program participation (SB 2248/HB 2656) and a law that **criminalizes unhoused people** for sleeping on public property (SB 1610/HB 978). Lawmakers also failed to pass a bill that would have ensured that a defendant is entitled to a **bail hearing within 48 hours** of arrest (SB 1791/HB 1936).

We will continue to advocate for a criminal legal system that keeps communities safe, treats people fairly, and uses fiscal resources wisely.

Educational Equity

We believe in the right of all children to learn in a safe, supportive environment and recognize the devastating effects of the policies that push students into the criminal justice system.

This year we supported SB 2173/HB 2258 and advocated

for an **end to suspension and expulsion of students in pre-kindergarten through second grade**. Studies have repeatedly shown that this approach is bad not only for disciplining students, but for the school’s climate as a whole. Removing children from the classroom leads to worse outcomes for our students – more behavioral problems, a higher likelihood of dropping out, and more interactions with the criminal justice system.

While the bill failed this year, we will address the problem of exclusionary discipline for our youngest students in the years to come.

Reproductive Justice

This past spring, lawmakers passed bills **prohibiting schools** from entering into agreements with entities that fund or perform abortions (SB 2158/HB 2557) and forcing patients to **pick up abortion-inducing drugs in-person** rather than receiving them by mail (SB 2281/HB 2416).

In the wake of the Supreme Court’s decision to overturn *Roe*, Tennessee’s 2019 trigger ban, which makes it a Class C felony for any person to perform or attempt to perform an abortion in Tennessee, went into effect. A Class C felony carries a maximum penalty of 15 years in prison. Much remains unknown about how this law will be implemented.

ACLU-TN will continue to join with our partners in the fight to ensure that all pregnant people can access the healthcare they need.

Voting Rights

This year, the session began with a redrawing of Tennessee’s electoral maps. Legislators also rejected, deferred, or weakened bills that would have expanded voting rights. A bill that would have expanded **access to the ballot box for formerly incarcerated people** was sent to summer study (SB 18/HB 561). Bills that would have allowed for study of the use of **college ID cards for voter identification** (SB 2711/HB 2813) and required high schools to **provide high school seniors information about voting** (SB 2064/HB 2489) both failed.

In better news, lawmakers passed a bill requiring creation of a **voter-verifiable paper audit trail** for every ballot cast (SB 2558/HB 2331). Tennessee will now comply with best practices for election security that are already in place in most states across the country.

Our full legislative recap can be viewed on our website by visiting: bit.ly/2022-legislative-update.

Despite an uphill battle against backward thinking and hateful rhetoric, our supporters contacted legislators over 6,000 times to successfully advocate on a range of issues. Thank you – your efforts made a difference.

ACLU

Tennessee

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ACLU of Tennessee

ACLU-TN Welcomes New Executive Director, Kathy Sinback



ACLU-TN is excited to announce that after a nationwide search, Nashville attorney Kathy Sinback was selected to lead the organization as its new executive director.

Prior to joining ACLU-TN, Sinback had served as Davidson County Juvenile Court Administrator since 2014. She began her career with the Metropolitan Public Defender's Office, where she represented youth facing transfer to the adult system. She also served as a senior attorney with the Metropolitan Department of Law. She was a 2017 member of the Tennessee General Assembly's Blue Ribbon Task Force on Juvenile Justice and currently serves on numerous state and local committees, including serving as co-chairperson of the Alignment Nashville Action Team on Student Discipline. She is a 2019 recipient of the Founder's Award from End Slavery Tennessee for her work in bringing attention to the problem of human trafficking in the state.

Sinback is also well-known for her work as Cyntoia Brown Long's juvenile court attorney and clemency advocate. Brown Long, whose case received international attention, was trafficked during her early teen years, then arrested at age 16 for killing a man who had solicited her for sex. She was sentenced to life in prison until her sentence was commuted by then Tennessee Governor Bill Haslam. Sinback worked closely with Brown Long throughout the process and continues to partner with her to advocate for change to the criminal legal system.

"The ACLU of Tennessee's work is more important than ever as we are faced with multiple attacks on our civil rights and civil liberties here in Tennessee and across our country," **Sinback** said. "ACLU-TN has long defended the rights of Tennesseans, particularly those who have been historically marginalized, and I am profoundly honored to build on this great work and to lead the organization at this time in its history."