



The Vigil

Spring 2014

ACLU-TN Legislative Wrap-Up: Productive Partnerships in the 108th Tennessee General Assembly



Though the whirlwind second session of the 108th General Assembly was one of the shortest of the past two decades, ACLU-TN was able to stave off multiple attacks on civil liberties and win key privacy safeguards. However, legislators failed to support protections for minority populations, with groups like the Family Action Council of Tennessee

and the Eagle Forum remaining vocal opponents to equal treatment and fairness for all. But even with a polarized legislature characterized by a Republican super-majority and strong Tea-Party influence, ACLU-TN garnered support and built productive partnerships on both sides of the aisle. We remain vigilant in our mission to achieve equality and fair treatment for all Tennesseans.

Highlights from ACLU-TN's 2014 Lobbying Program

Warrant Requirement to Search Cell Phones - SUPPORT - SB 1757/HB 1869 prohibits law enforcement from searching, examining, extracting or duplicating cell phone data, even in the course of a lawful arrest, unless they have a search warrant, the owner consents, or exigent circumstances exist. This bill, which protects Tennesseans from government surveillance, was signed into law.

License to Discriminate Against LGBT Customers - OPPOSE - SB 2566/ HB 2467 would have allowed individuals, businesses and organizations to use religion to discriminate against LGBT and other individuals by refusing to provide them goods or services. ACLU-TN engaged business lobbyists and LGBT groups to defeat this discriminatory legislation. Arizona's legislature passed a similar measure. Though Gov. Jan Brewer vetoed it following national uproar, such attempts to legalize discrimination against LGBT people demonstrate why sexual orientation and gender identity must be made protected classes under law.

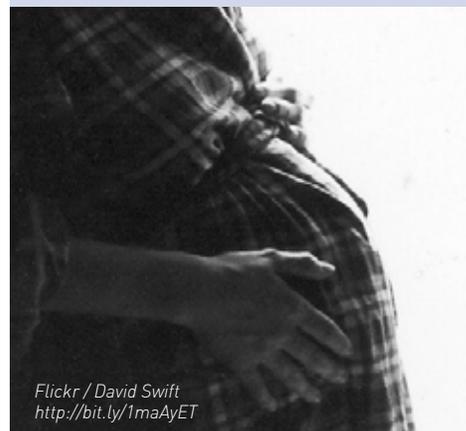
Common Sense in Student Discipline - SUPPORT - SB 2501/ HB 2497 encouraged schools to consider a range of factors prior to suspension, expulsion or transfer to an alternative school, instead of relying on zero-tolerance policies that impose severe punishments on students—often youth of color and youth

Continued on p.5

ACLU-TN Fights Law Targeting Pregnant Women

Governor Bill Haslam made headlines in April when he signed legislation making Tennessee the first state in the nation to authorize the filing of assault charges, carrying up to fifteen years in prison, against a woman who decides to remain pregnant despite suffering from a substance abuse problem.

ACLU-TN and our coalition partners had strongly urged the governor to veto this legislation because it singles



out pregnant women for discrimination, raising serious constitutional concerns regarding equal treatment under the law.

Both the U.S. and Tennessee constitutions protect the fundamental right to procreate, a right that specifically protects women from measures penalizing the decision to carry a pregnancy to term. This legislation also defies

Continued on p.6

From the Executive Director

Hedy Weinberg

The U.S. accounts for 5 percent of the world's population, but almost a quarter of the world's prisoners. In Tennessee, the prison population grew at twice the rate of the general population over the past 13 years. Numerous factors are associated with this country's mass incarceration crisis. But one that strikes close to home is the rise of the prison-industrial complex, the powerful corporations with a vested financial interest in an ever-increasing number of people behind bars.

Nashville-based Corrections Corporation of America, or CCA, is the nation's oldest and largest private prison company. CCA runs more than 60 jails and prisons in 21 states, grossing \$1.7 billion in 2012. It has gotten contracts, including seven in Tennessee, by promising to run corrections facilities better and for less. But CCA has broken that promise time and again.

While proponents claim private prisons save governments money, evidence of cost savings is mixed at best. In Tennessee, taxpayers were contractually required to pay CCA nearly a half-million dollars for empty beds at the Nashville jail in 2011. In Idaho, CCA admitted in court to falsely billing the state for 4,800 hours of unstaffed security posts at one prison. An independent audit found that the number of unstaffed hours was probably closer to 26,000, and the FBI is currently investigating.



Numerous meta-studies have found that private prisons offer no cost advantage. One of the few studies that does show a cost benefit is the infamous Temple University study. Private prison corporations often cite this study, failing to note when they do that it was funded by for-profit prison companies and that its authors are currently the subject of an ethics investigation.

The argument that CCA can run prisons better than the public sector is also questionable. One CCA prison in Idaho was known as the

"Gladiator School" because it had four times the number of prisoner-on-prisoner assaults than the state's seven other prisons combined. In Ohio, CCA was ordered to pay the state \$500,000 for violations of 47 state standards. And four current and former employees have filed a lawsuit against CCA, contending that they sustained severe emotional distress and physical injuries due to inadequate training, understaffing, and broken or useless equipment, such as radios with malfunctioning buttons and empty cans of pepper spray.

With all of these problems, how does CCA keep growing? It built a robust lobbying program to advance its agenda, hiring 199 lobbyists in 32 states between 2003 and 2011. It also spent millions to lobby and litigate against transparency, fighting to ensure that it is not subject to the same open-records laws as publicly run prisons.

Privatization is not always a bad thing. But incarcerating people should be the government's responsibility. The government has a vested interest in protecting public safety and reducing both the number of people behind bars and recidivism. CCA has a vested interest in people racking up "frequent-flier" miles in its facilities. Indeed, CCA reported in SEC filings that "risks" to its bottom line include "reductions in crime rates" and lower minimum sentences for nonviolent crimes. Clearly, private prisons are beholden to shareholders, not taxpayers.

CCA has repeatedly broken its promise to run prisons better and for less. It's time for Tennessee to join the ranks of Texas, Idaho, Mississippi and Kentucky and walk away from contracts with CCA.

NOTE: This article is excerpted from an op-ed that ran in *The Tennessean* on May 9, 2014.

Thousands Speak Out Against CCA

On May 15, ACLU-TN sent Governor Bill Haslam a petition with over 23,000 signatures from ACLU supporters nationwide urging an end to Tennessee contracts with CCA. The petition was the culmination of ACLU-TN's "Who is CCA?" public awareness campaign, outlining the private prison giant's history of abuses, both locally and nationwide.

To learn more or to add your name to the petition, visit <http://www.whoiscca.com>.

Lobbying for Freedom: My Semester with ACLU

By Katrina Meyers,
Vanderbilt Divinity School

As ACLU-TN's legislative intern, I was given a special view of ACLU-TN's lobbying to protect civil liberties at the Tennessee General Assembly.

I saw firsthand ACLU-TN's commitment to preserving our constitutional rights through nonpartisan partnerships. Sometimes we worked with progressive legislators to push for a bill's swift and resounding



Flickr / Joshua Bousel
<http://bit.ly/1uww3k0>

defeat. At other times, we partnered with members of the Tea Party to support legislation upholding Tennesseans' civil liberties.

Sometimes, however, it seemed like no one listened to logic and good bills were sent to committee to stop their progress or they simply disappeared altogether.

Despite these frustrations, I was inspired by ACLU-TN's integrity, dedication and partnership with others to protect freedom in our state. Going forward, I'm hopeful about what we can do together to help build a more equal Tennessee.

Amendment One: The Danger on November's Ballot

On November 4, 2014, Tennesseans will vote whether or not to add the following language—which would allow politicians to insert themselves into private decisions—to the Tennessee Constitution:



"Nothing in this Constitution secures or protects a right to abortion or requires the funding of an abortion. The people retain the right through their elected state representatives and state senators to enact, amend, or repeal statutes regarding abortion, including, but not limited to, circumstances of pregnancy resulting from rape or incest or when necessary to save the life of the mother."

Amendment 1 is intended is to make abortion illegal or unavailable in Tennessee. Though intentionally worded in a confusing way, this flawed and dangerous amendment makes no exception for the health of a woman or for cases of rape or incest. Instead, this amendment would make it possible for politicians to place even more restrictions on the right to an abortion, with no regard for extreme circumstances when a woman's health is in danger, such as a pregnant woman who needs treatment for cancer.

In tragic circumstances, families need to make their own difficult, private decisions, without government interference. This amendment would insert politicians into what should be a private deci-

Continued on p. 5

Tennessee Reproductive Justice Network: Voices of Faith for Reproductive Freedom

ACLU-TN'S Tennessee Reproductive Justice Network (TRJN) is a group of clergy and community leaders who support Tennesseans' access to comprehensive reproductive health care, including abortion services for all women and families. Members come from throughout the state and span the religious and denominational spectrum.



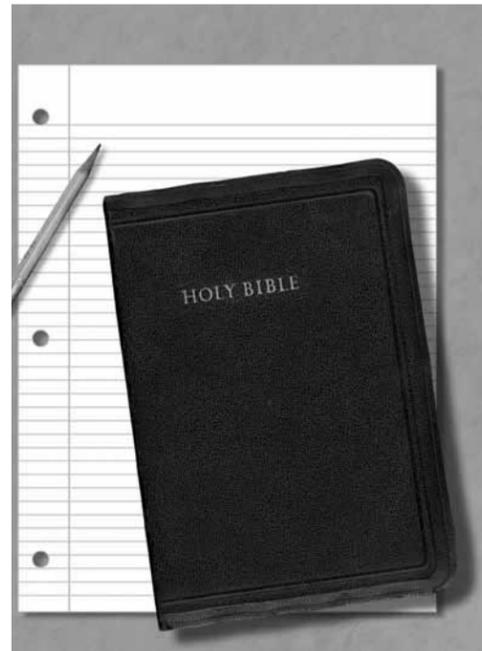
A TRJN luncheon in Nashville.

Organized and supported by ACLU-TN Reproductive Freedom Organizer Miriam Leibowitz, members of TRJN have voiced their support reproductive for freedom and their ethical, religious, and public health concerns about Amendment 1 in publications across the state, including *The Tennessean*, *The Commercial Appeal*, the *Knoxville News-Sentinel* and the *Chattanooga Times Free Press*.

In the future, ACLU-TN looks forward to broadening our TRJN partnerships and engaging its members on a range of civil liberties issues. For more, please visit www.aclu-tn.org/TRJN.html.

ACLU-TN Protects Student's Right to Read the Bible

When one Cannon County family's elementary-school-aged son was prohibited from reading his Bible during a free-reading period at his after-school program, they turned to ACLU-TN to protect his religious freedom.



Lisa Koepfgen reported that staff of the REACH after-school program told her son, Austin Grayson, that he could read any book except the Bible during free-reading time. When the child refused to put his Bible away, staff tried to take it from him, mistakenly claiming that the state could shut the program down if they allowed him to read it.

ACLU-TN sent a letter to the Cannon County REACH after-school program explaining that students have a constitutional right to read religious texts of their own volition during free-reading periods. The letter requested that the student be allowed to read his Bible during free-reading periods and other student activity time. The letter also requested that the REACH program train its employees on "their obligation under the law to safeguard their students' religious liberties without imposing religion on them."

In response to the letter, the after-school program educated their staff on students' constitutional rights in public schools, circulating ACLU-TN's letter to staff members.

"I am so proud of my son for standing up for his right to read the Bible during free reading time," said Lisa Koepfgen. "I am...glad that

[the REACH program has] taken steps to ensure that my son, and all children, can read religious books during free time in the future."

Know Your Rights: Religious Freedom and the Muslim Community

ACLU-TN has been conducting a series of religious freedom workshops entitled, "Know Your Rights: Your Protections in the Workplace, at School, and with Law Enforcement" in Muslim communities throughout the state.

Led by ACLU-TN Organizer Drost Kokoye, these public education events empowered attendees with information on their right to be safe from religious harassment and discrimination in school and at work, to exercise and express their faith in school, to have certain religious practices accommodated in the workplace, and to be free from school-sponsored prayer and proselytizing. The workshops also discussed racial profiling and individuals' rights when interacting with law enforcement.

Co-sponsored by the American Center for Outreach, the workshops took place in mosques, schools and community centers in Jackson, Memphis, Nashville, Chattanooga, Knoxville and Murfreesboro.



ACLU-TN Organizer Drost Kokoye leading a Know Your Rights workshop in Memphis.

For more information about ACLU-TN's work to preserve religious freedom and for resources on your rights in school and in the workplace, please visit <http://www.aclu-tn.org/religiousfreedom.htm>.

Continued from p. 3

sion between a woman, her family, her doctor, and her faith.

ACLU-TN is joining with our statewide partners to mount an aggressive public awareness campaign about Amendment 1's alarming realities and to ensure a woman in Tennessee has as many options as possible when making decisions about her reproductive health care.

To learn more about Amendment 1 and to get involved in the fight to protect reproductive freedom in Tennessee, visit <http://www.voteno1tn.org>.

Continued from p. 1

with disabilities—without regard to individual circumstances. While the bill did not pass, ACLU-TN is committed to eliminating zero tolerance and other policies that contribute to the school-to-prison pipeline.

Dignity for All Students - SUPPORT - HB 927/ SB 1124 would have strengthened Tennessee's existing anti-bullying law by clearly identifying common characteristics that all-too-often become the target of bullying in schools. The bill did not pass, but ACLU-TN will continue to pursue statewide anti-bullying legislation, like the comprehensive anti-bullying policy secured by ACLU-TN's Support Student Safety Coalition in Metro Nashville Public Schools.

Limits on "Policing for Profit" in Tennessee - SUPPORT - HB 1879/ SB 2044 would have allowed people who had property seized during traffic stops to file a lawsuit if their property was seized without a forfeiture warrant, or if the officer acted in bad faith in seizing or failing to return the property. ACLU-TN worked with the Beacon Institute to advance this bill. Though it did not pass, ACLU-TN will continue to pursue initiatives to end civil forfeiture.

Tuition Equity in Tennessee - SUPPORT - SB 2115/ HB 1929 grants in-state college tuition rates to all students who are U.S. citizens, graduate from Tennessee schools, and meet residency require-

ments, regardless of their parents' immigration status. A great victory for equality and a major step forward for fair treatment of immigrants in Tennessee, the bill passed with bipartisan support and was signed into law by the governor. We will continue to work with coalition partners to pass a law that will ensure that all Tennessee high school students, regardless of their citizenship status, can receive in-state tuition at public universities.



Flickr / Kwong Yee Cheng
<http://bit.ly/1iuv3kC>

The So-Called "Religious Viewpoints Antidiscrimination Act" - OPPOSE - While purporting to protect students' expression of religious viewpoints, SB 1793/ HB 1547 crossed the line into potentially creating systematic imposition of some students' personal religious viewpoints on others. ACLU-TN will be monitoring this law's impact on students' religious freedom and encourages anyone concerned about the law's impact on themselves or someone they know to contact us at <http://www.aclu-tn.org/gethelp.htm>.

Limits on Storage of License Plate Data - SUPPORT - SB 1664/ HB 2101 prohibits law enforcement agencies and certain state departments from storing license plate records collected via automatic license plate readers for longer than 90 days. This bill, which was signed by the governor, is a common sense limitation on government agencies' collection of Tennesseans' personal data.

THANK YOU to all our committed e-activists who urged legislators to protect and promote civil liberties in Tennessee. To receive legislative updates, please visit <http://bit.ly/ACLU-TNAlerts>.



P.O. Box 120160
Nashville, TN 37212

NON-PROFIT ORG.
U.S. POSTAGE
PAID
NASHVILLE, TN
PERMIT NO. 3169

Save the Date

2014 Bill of Rights Celebration

Thursday, November 20
Nashville, TN

*Featuring keynote address
by CNN Crossfire host
and best-selling author
Van Jones*

To nominate a recipient
for the Benjamin S. Pressnell
Bill of Rights Award or the
ACLU-TN Lifetime Achievement
Award, visit <http://bit.ly/borc14>.



*2014 Bill of Rights Celebration
keynote speaker Van Jones*

Continued from p.1

Supreme Court precedent affirming that states may not criminalize suffering from the disease of drug addiction.

In addition to constitutional concerns, this law discourages women struggling with drug dependency from seeking the pre-natal care and substance abuse treatment they need, jeopardizing the health and well-being of Tennesseans and their families.

ACLU-TN is currently seeking plaintiffs and plans to file a lawsuit challenging this egregious law targeting pregnant women.