



Because Freedom Can't Protect Itself

acluofnc.org

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Fight for Marriage Equality Comes to North Carolina



Goodbye, Amendment One?

The ACLU and ACLU-NC Legal Foundation have amended our challenge to North Carolina's ban on second parent adoptions to also include a challenge to the state's ban on marriage between same-sex couples. Above: Marcie (left) and Chantelle Fisher-Borne, of Durham, with their children, Elijah and Miley, are the lead plaintiffs in lawsuit.

The movement to secure equal rights and protections for LGBT people and families headed by same-sex couples won a historic victory this summer after the U.S. Supreme Court, in the case of ACLU client Edith Windsor, ruled that the so-called Defense of Marriage Act (DOMA), which defined marriage as between one man and one woman, was unconstitutional.

Just weeks after that landmark ruling, the ACLU of North Carolina amended our 2012 lawsuit challenging the state's ban on

second parent adoptions on behalf of six same-sex couples and their children to include a challenge to the state's ban on marriage for same-sex couples, as well.

While we are still seeking second parent adoption rights – in which one partner in an unmarried couple adopts the other partner's biological or adoptive child – the additional claims in our lawsuit give us our best chance to date to win the freedom to marry for all loving and committed couples in

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ACLU, Allies File Legal Challenge to New Restrictions on Voting

Hours after Gov. Pat McCrory signed perhaps the harshest anti-voting law in the country on Aug. 12, the American Civil Liberties Union, ACLU of North Carolina Legal Foundation, and Southern Coalition for Social Justice filed a federal lawsuit challenging many of its most egregious provisions. The suit specifically targets parts of the law

that eliminate a week of early voting, end same-day registration, and prohibit "out-of-precinct" voting. It seeks to stop North Carolina from enacting these provisions, arguing that they would unduly burden the right to vote and discriminate against African-American voters, in violation of the U.S. Constitution's Equal Protection Clause and the

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LIBERTY

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Help the ACLU Fight Back

The North Carolina that we know and love does not even remotely embody the values being pushed by the mean-spirited extremists who currently hold positions of power in state government. Despite widespread protests in which thousands of North Carolinians gathered weekly to urge sensibility and compassion — with nearly 1,000 people willingly arrested just to emphasize their anger and frustration — this legislature passed House Bill 589, the most regressive set of anti-voting laws in the nation. We believe this is because they know darn well that the majority of North Carolinians do not support legislative proposals that slash education, prevent women from accessing full reproductive health care, aggressively push to restart executions after repealing the Racial Justice Act, reduce access to medical care and legal services for prisoners and the poor, suggest that North Carolina should be able to establish an official state religion and refuse to acknowledge the authority of the U.S. Supreme Court to interpret the First Amendment, punish whistleblowers instead of corporations that violate animal welfare laws, promote racial and religious profiling, and much more. No, this is not what North Carolina is all about. This small group of radical extremists has overplayed their hand, and now the only way to keep themselves in power is to undermine the public's right to vote!

But there is good news. The people of North Carolina have an antidote to such extremism, and that antidote is the ACLU. We fight back! Before the ink even dried on the governor's signature last month, the ACLU and our allies filed a legal challenge to several of the most onerous provisions of House Bill 589. Your generous support makes this work possible, and we truly believe that people like you — our most dedicated members — are what North Carolina is really all about. So please stand strong with us this year, redouble your commitment and increase your financial support if you are able, and together, we will make sure that the guarantees of individual liberty and equality enshrined in the Constitution are protected now and for generations to come. ■



Jennifer Rudinger
Executive Director

LEGAL NEWS

ACLU Lawsuit Seeks to Protect Voting Rights



LEFT: ACLU-NC Legal Director Chris Brook speaks alongside plaintiffs in the ACLU's challenge to North Carolina's voter suppression law at the International Civil Rights Center & Museum in Greensboro. "We should be making it easier for people to vote, not harder," Brook said.

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Voting Rights Act of 1965.

The lawsuit was filed on behalf of several North Carolinians who will face substantial hardship under the law, and organizations whose efforts to promote voter participation in future elections will be severely hampered if the measure takes effect.

"This law is a disaster," said Dale Ho, director of the ACLU's Voting

Rights Project. "Eliminating a huge part of early voting will cut off voting opportunities for hundreds of thousands of citizens. It will turn Election Day into a mess, shoving more voters into even longer lines. Florida eliminated a week of early voting before the 2012 election, and we all know how that turned out – voters standing in line for hours, some having to wait until after the president's acceptance speech to finally vote, and hundreds of thousands giving up in frustration."

North Carolinians use early vot-

ing in vast numbers. During the 2012 election, 2.5 million ballots were cast during the early voting period, representing more than half the total electorate. More than 70 percent of African-American voters utilized early voting during the 2008 and 2012 elections.

In recent elections, North Carolinians could register, or update their registration information and vote, in one trip to an early voting site. In 2012, approximately 250,000 people did so. As for out-of-precinct voting, for more than a decade, voters who accidentally cast a ballot in the wrong precinct could still expect to have their votes counted for statewide races. If this law takes effect, those votes would be void. ■

Court Orders Rowan Commissioners to Halt Unconstitutional Prayers as Lawsuit Proceeds

Four months after the ACLU filed a lawsuit on behalf of three Rowan County residents demanding that the Rowan County Board of Commissioners stop its unconstitutional practice of opening government meetings with prayers that are specific to one religion, a federal court on July 23 ordered the commissioners to immediately cease this practice while the lawsuit continues.

At the commissioners' next meeting on August 5, the officials chose to go behind closed doors to pray in private before the meeting in

order to follow the judge's order.

"It's encouraging that the commissioners have decided to comply with the law," said Chris Brook, ACLU-NCLF Legal Director. "We hope going forward they will ensure that any invocations used at meetings strive to be welcoming and inclusive to all Rowan County residents, regardless of their personal beliefs."

The original complaint details how more than 97 percent of board meetings since 2007 have been opened with prayers specific to one religion, Christianity.



From left: ACLU-NC Legal Director Chris Brook with plaintiffs Nan Lund, Bob Voelker, and Liesa Montag-Siegel.

The commissioners, who delivered the prayers themselves, had routinely called on Jesus Christ and referred to other sectarian beliefs during previous invocations. ■

LEGISLATIVE NEWS

ACLU-NC Combats Avalanche of Extremist Bills

The North Carolina General Assembly adjourned on July 26, ending a session marked by unprecedented attacks on civil liberties, from voting rights and due process, to reproductive rights and religious liberty. The ACLU-NC closely monitored nearly 200 bills this session, and despite the hostile environment, we were able to win several victories as well.



ACLU-NC Policy Director Sarah Preston was the first person to testify against North Carolina's voter suppression bill when it was initially proposed in the legislature.

VOTING RIGHTS: With less than 48 hours' notice, the House and Senate approved an omnibus voter suppression law that shortens early voting, eliminates same-day registration, and requires voters to present specific forms of IDs that many voters lack. Gov. McCrory signed the bill on Aug. 12, and hours later the ACLU-NC and others filed lawsuits challenging it in federal court. See pages 1 & 4 for more details.

REPRODUCTIVE RIGHTS: Again, with little public notice, the House and Senate approved S.B. 353, a

motorcycle safety bill that was rewritten to be one of the nation's most sweeping proposals to place restrictions on abortion access and reproductive health care. The ACLU-NC spoke out forcefully against this measure through testimony and in the media, and even delivered a petition signed by more than 7,000 people urging Gov. McCrory to keep his campaign promise to not sign further restrictions on abortion access. Tragically, the governor broke his promise and signed the bill. We are now focusing our efforts on the rule-making process for S.B. 353 in an effort to mitigate its damage and keep clinics open across the state.

PRIVACY RIGHTS: The ACLU-NC helped introduce bills to regulate law enforcement's use of cell phone tracking, automatic license plate readers, and drones, but they did not advance out of committee. However, we were able to help insert a provision into the state budget that prohibits police and other government agencies from buying surveillance drones until July 2015, under most circumstances. The legislature passed H.B. 392, which required some welfare applicants to submit to costly drug tests and the ACLU-NC opposed as an unwarranted invasion of privacy. We urged the governor to veto the bill, which he did, but the legislature unfortunately voted to override his veto in early September.

RELIGIOUS LIBERTY: Lawmakers earned national scorn when they introduced H.J.R. 494, a resolution written in response to the ACLU-NC's



ACLU-NC supporters, staff members, and board members hand-delivered more than 7,000 signatures to Gov. Pat McCrory's office on July 23, asking the governor to "stand up for women's health by honoring your promise not to support new restrictions on abortion access" — a promise the governor ultimately broke.

lawsuit against Rowan County's unconstitutional use of sectarian prayers (see page 3) that called for allowing North Carolina to establish an official state religion. After widespread condemnation from the ACLU-NC and others, the resolution did not advance. Unfortunately, lawmakers did push through other bills that undermine religious liberty, including a provision to the state budget that transfers taxpayer dollars that could be spent on public education to send students to private, almost exclusively religious, schools. The governor also signed a bill to ban "foreign" (i.e. Sharia) law in North Carolina, an unnecessary measure that serves only to stoke anti-Muslim sentiment.

RACIAL JUSTICE: As expected, the legislature tragically repealed what remained of the Racial Justice Act, the 2009 law that allowed death row inmates to appeal their sentence and receive life without parole if they could demonstrate racial bias. In one of the

Civil Liberties Legislation in the 2013 Session

Issue	Bill(s)	ACLU-NC Position	Outcome
Voting Rights	H.B. 589 , cuts a week of early voting, ends same-day registration, ends “out-of-precinct” voting, requires forms of IDs many voters lack, and more.	Opposed; Lobbied and testified against	Passed; ACLU and others filed lawsuit to stop; see page 1
Reproductive Rights	S.B. 353 , a motorcycle safety bill rewritten to place costly and unnecessary restrictions on abortion clinics, as well as interfere in the doctor-patient relationship, and more.	Opposed; Lobbied, testified, petitioned against	Passed; ACLU-NC lobbying officials to mitigate damage
Religious Liberty	H.J.R. 494 , a nonbinding resolution, called for allowing N.C. to establish an official state religion. S.B. 944 , cut public education funding by transferring \$40 million or more per year from the state’s budget to fund scholarships (vouchers) for private, mostly religious, schools. H.B. 522 , unnecessarily banned “foreign law” (i.e. Sharia law) from North Carolina.	Opposed all three; Lobbied against and criticized in the media.	S.B. 944 not ratified but vouchers added to state budget. H.B. 522 passed. VICTORY: H.J.R. 494 was killed after criticism.
Privacy Rights	Three bills to regulate surveillance technology: H.B. 312 (drones), S.B. 529 (cell phone tracking), S.B. 623 (automatic license plate readers). H.B. 392 , required some welfare applicants to submit to urine tests.	Supported and helped introduce 3 surveillance bills; opposed H.B. 392.	H.B. 392 passed. VICTORY: Drone regulations added to state budget
Racial Justice	H.B. 786 originally written to legalize racial profiling & bring Arizona-style anti-immigrant law to N.C. S.B. 306 sought to repeal the Racial Justice Act, which addressed racial bias in N.C. death penalty.	Opposed, lobbied, organized, and spoke out against both bills.	S.B. 306 passed. VICTORY: Harsh enforcement measures taken out of H.B. 786.
Youth Rights	H.B. 693 , requires minors to obtain parental consent to receive certain types of health care, such as STD, mental health, and substance abuse treatment	Opposed; Lobbied and spoke out against	VICTORY: Bill defeated after passed out of committee
Free Speech	S.B. 648 , “ag-gag” bill criminalized undercover investigations and documentation of abuse and maltreatment of animals at factory farms.	Opposed; Lobbied and spoke out against	VICTORY: Bill defeated

How did your representative vote on civil liberties issues? Read our report card at acluofnc.org.

biggest victories of the year, the ACLU-NC successfully opposed an Arizona-style anti-immigrant bill that would have legalized racial profiling and allowed police to detain people and seize their vehicles if they did not carry proper paperwork. Our opposition helped remove the bill’s harsh enforcement measures.

YOUTH RIGHTS: The ACLU-NC helped defeat a bill that would have required minors to obtain parental consent to receive certain health care and could therefore discourage young people from seeking treatment for serious health problems such as sexually transmitted infections, substance abuse, or a mental health problem.

FREE SPEECH: Along with coalition allies, the ACLU-NC defeated a so-called “ag-gag” bill that would have criminalized undercover investigations documenting the conditions of animals at factory farms. The bill would have clearly violated the First Amendment’s protection of free speech and free press. ■

ACLU-NC Seeks Freedom to Marry in N.C.

(Continued from page 1)

North Carolina.

Marcie and Chantelle Fisher-Borne, one of the couples in the case, have been together for 16 years and live in Durham. Each woman carried one of their two children, 5-year-old Miley and 1-year-old Elijah. They had a wedding in North Carolina 10 years ago and were legally married in Washington, D.C. in 2011, but their marriage is not recognized by North Carolina law. When their daughter was born, the couple met resistance from a hospital staff member who demanded their legal paperwork. If they were legally married in North Carolina, their family would be respected and such encounters could be avoided.

"Our children deserve the security of having both Marcie and me

as legally recognized parents, and marriage is the best way for us to provide that to them," Chantelle said. "We declared our love and commitment to each other years ago, but the law in North Carolina does not recognize the life we have built together or allow us to share legal responsibility for the children we are raising together."

In striking down DOMA, Justice Anthony Kennedy wrote that banning marriage between same-sex couples "humiliates tens of thousands of children now being raised by same-sex couples ... [and] makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with

other families in their community and in their daily lives."

"North Carolina's refusal to grant legal recognition to families headed by same-sex couples has created an unending list of dilemmas that deprives loving families of the security and legal protections that they deserve," said ACLU-NC Legal Director Chris Brook. "We look forward to making our arguments before the court, as well as continuing a dialogue with the people of North Carolina as to why the rights and responsibilities that come with marriage should not be denied to loving and committed couples simply because they are gay or lesbian." *To learn more about the case and the families involved, visit acluofnc.org.* ■

"The law in North Carolina does not recognize the life we have built together or allow us to share legal responsibility for the children we are raising together." - Chantelle Fisher-Borne

Legal Roundup: Victories for Students', LGBT Rights



Students' Rights

Smoky Mountain High School student Kaitlyn Parker (above, right) of Jackson County contacted the ACLU-NC earlier this year after she was told by school officials she could not wear a feather in her

graduation cap as part of her Cherokee heritage.

The ACLU-NC contacted school officials on her behalf, and Parker was allowed to wear the eagle feather during her graduation ceremony.

LGBT Rights

The ACLU-NCLF helped win an important victory in *U.S. v. Lanning*, a case out of Asheville in which police wrongfully arrested a gay man for assault and charged him with "disorderly conduct" after he responded to an un-

dercover officer's sexual advances. This type of entrapment fits into a larger national pattern of gay men being targeted by law enforcement based on purely consensual behavior that in no way involves prostitution or any talk whatsoever of a monetary exchange.

The ACLU-NCLF co-authored and submitted a friend-of-the-court brief to the Fourth Circuit Court of Appeals, arguing that the incident amounted to police entrapment. The Fourth Circuit Court of Appeals overturned Mr. Lanning's conviction on July 19. ■

CHAPTER UPDATES



WAKE COUNTY: On April 10, the Wake County Chapter of the ACLU hosted its annual Slater Newman Forum, "Firearms and Our Society." Pictured above, from left, participants in the panel discussion included Grassroots North Carolina President Paul Valone, longtime ACLU member Slater Newman, National ACLU Board Representative Carlos Mahoney, North Carolinians Against Gun Violence Executive Director Gail Neely, ATF Agent Earl Woodham, and ACLU of Wake County President Matthew Quinn, who moderated the discussion. *See back page for information about the ACLU of Wake County's Annual W.W. Finlator Awards Dinner on November 14.*

WESTERN NORTH CAROLINA: During the WNC chapter's annual membership meeting on May 19, state Rep. Susan Fisher (D-Buncombe), ACLU-NC Policy Director Sarah Preston, and Board Member Bruce Elmore discussed the new North Carolina legislature and its impact on civil liberties. The annual Evan Mahaney Civil Liberties Award went to affiliate and chapter board member Jim Cavener, an active ACLU member for over 50 years. Newly elected chapter board members are Heather Hawn, Currie Blair, and Bill Ramsey.

CHARLOTTE: The ACLU of Charlotte hosted the ACLU-NC's statewide membership meeting on May 30, featuring a panel discussion on government surveillance with representatives of the ACLU-NC, the Charlotte-Mecklenburg Police Department, and the Constitution Project, which was widely covered by local media. The chapter has created a priority list of its top issues, including (1) voter suppression, (2) religious liberty, (3) assistance for people who can't afford an attorney, (4) LGBT rights, (5), reform of the Charlotte Citizens Review Board, and (6) immigrants' rights. Visit www.aclu-charlotte.org to get involved and learn about upcoming events. ■

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November 14: The ACLU of Wake County Presents
The 29th Annual W.W. Finlator Awards Dinner



Gene Nichol,
2013 recipient of the
W.W. Finlator
Award

The Wake County chapter of the ACLU will honor **Gene R. Nichol** with the W.W. Finlator Award, presented annually to recognize an individual for outstanding civil rights advocacy. Mr. Nichol is Boyd Tinsley Distinguished Professor of Law and Director of the Center on Poverty, Work and Opportunity at the UNC Law School.

The Wake County Civil Liberties Award, recognizing an organization or group for extraordinary contributions to advocacy or defense of civil liberties, will be presented to **Democracy North Carolina**, a nonpartisan organization that combines research, grassroots organizing, and advocacy to increase voter participation.

Author, historian and professor **Timothy B. Tyson** will be the keynote speaker. Tyson specializes in issues of culture, religion and race associated with the civil rights movement of the twentieth century.

When: Thursday, November 14, 2013

Where: Casa Carbone, 6019 Glenwood Ave., Oak Park Shopping Center, Raleigh

Contact: Matthew Quinn, ACLU of Wake County President, at
mattdquinn@gmail.com for additional details.