



THE DEFENDER

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Newsletter of the American Civil Liberties Union of Iowa

Ongoing Litigation for Abortion Rights Marked by Major Win

The Iowa Supreme Court has strongly affirmed a woman's fundamental right to abortion, even as we contest Iowa's extreme 6-week abortion ban.

It's not often that wording from an Iowa Supreme Court decision makes national headlines, but the Court's majority opinion that overturned Iowa's 72-hour waiting period abortion law last June did just that.

The Court's ruling clearly and firmly affirmed an Iowa woman's right to an abortion, a welcome development since over the past two years, the Iowa Legislature has passed two draconian laws that aim to eradicate abortion access in Iowa.

In June the Iowa Supreme Court struck down a law that would have required Iowa

women seeking an abortion to make a second, medically unnecessary clinic visit and then to wait at least 72 more hours after that visit to actually receive services.

As Important As *Varnum*

Rita Bettis Austen, ACLU of Iowa legal director, said, "This is the most important constitutional rights case in our state since *Varnum*," which recognized same-sex marriage in Iowa.

"This latest decision recognizes that women have equal footing to men under our laws. It holds that women have a fundamental right to a safe and legal abortion that cannot be legislated away. The court based its decision on its recognition that women's equality and freedom is intrinsically tied to

her ability to make her own decisions about her body and whether to become a parent. This is a very important, happy moment for freedom and equality of women in Iowa."

Court Used Powerful Language

The Court's wording strongly articulated how a woman's equality and freedom are intrinsically tied to her ability to make her own decisions about her body and whether to become a parent. It also recognized that enacting the law would have severely curtailed many women's ability to get abortions and in many cases, prevented them from being able to get them at all.

The Court wrote: "Autonomy and dominion over one's body go to the very

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Encouraging Voting in Iowa Through Voter Education

With multiple changes in Iowa law, public education is critical to encourage voters.

There has been a lot of controversy and confusion about voting laws in Iowa lately, so it's as important as ever that the ACLU of Iowa does everything it can to encourage people to vote, to educate themselves about the process, and to know their rights.

Information Onslaught

In every election year, the ACLU nationally and on a state level conducts voter education in a variety of ways. And these days, there are seemingly endless ways to reach voters, and we're taking advantage of that.

The ACLU of Iowa website has more voting information than ever. It contains updates on voting laws and voter suppression attempts, details about how to register, how to vote early, how to find your polling place, how to vote on Election Day, updated information about Iowa's photo ID law and more. (See for yourself at www.aclu-ia.org.)

Key information includes:

- Quick tips for voting
- Who is eligible to vote
- Voter registration basics
- How to vote early and how to vote with an absentee ballot
- How to vote at the polls on Election Day and your rights in getting to the polls and at the polls
- Updates on information that may be needed to prove your identity and your rights when asked for identification
- What to do if you have problems at the polls

We're also active on social media, posting voting information in English and Spanish



It's critical that voters of color, those who are low-income, who are elderly, or who have disabilities are not discouraged from voting by recent changes in Iowa's voting law.

and targeting key voters and potential voters who might be less likely than others to vote, such as younger voters and Iowans who are not yet registered.

We've also updated our Know Your

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The Defender is the newsletter of the ACLU of Iowa, published three times a year.

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Iowa Transgender Civil Rights Case Now Before Iowa Supreme Court

This historic legal victory is the first time a court has affirmed that transgender people are protected by the Iowa Constitution and Iowa Civil Rights Act.

In June, ACLU of Iowa clients Carol Ann Beal and EerieAnna Good won a lawsuit that successfully challenged an Iowa Department of Human Services (DHS) ban on Medicaid coverage for medically necessary surgical care for transgender Iowans.

The court found that the ban violates the Iowa Civil Rights Act and Iowa's state constitution. It ordered that DHS should act right away to approve the clients' physicians requests for pre-approval of coverage under Medicaid.

Sweeping, Categorical Discrimination

That meant transgender Iowans covered by Medicaid would get the medically necessary care they needed and would no longer face Medicaid's sweeping, discriminatory, and categorical exclusion of all transition-related care. That care has been denied in the past, even though it was determined to be medically necessary by an individual's doctor. Medicaid otherwise provides coverage for virtually every other type of medical care deemed necessary by a doctor.

The district court win also marked a historic moment for civil rights in Iowa. It was the first time that a court decision has recognized what we've long known: transgender Iowans are protected by the Iowa



Constitution's guarantee of equal protection, as well as by the Iowa Civil Rights Act.

Unfortunately, the state appealed, continuing its discriminatory treatment of transgender Iowans.

Carol Ann Beal says, "It's like any other surgery that a doctor would recommend for



you or a family member," she said. "Public or private insurance would pay for it, and you'd just do it and move ahead with your life. I look forward to the day when someone fighting to get the transition-related medical care they need isn't in the news because they had to go to court to fight for it."

Transgender Trailblazing

Carol Ann says she's doing this for generations to come. "I'm doing it because someone needs to be the trailblazer here. I want to make it easier for the younger people who need this surgery, so they don't have to go through the struggles I have had to go through."

As a result of Iowa Medicaid's sweeping exclusion, all surgical treatments for gender dysphoria are excluded from coverage, even though the same or substantially equivalent treatments are provided to cisgender Iowans. For example, Iowans who are not transgender routinely receive coverage for a medically necessary mastectomy—but a transgender Iowan would be banned from coverage for the same care, if it were to treat gender dysphoria, despite a doctor deeming it medically necessary.

Changed Medical Thinking

As the district court's decision stated, "Gender Dysphoria has a biological component and the current medical consensus no longer supports the conclusion that gender affirming surgery is not therapeutic. Medical thinking and Iowa law has changed."

In 2014, the U.S. Department of Health and Human Services invalidated its ban on Medicare coverage for surgery and other transition-related care. Since then, more and more states have also eliminated their outdated bans on Medicaid coverage for health care for transgender people in those states. ■

Being Homeless in Iowa and Asking for Money Is Not a Crime

The ACLU and the National Law Center on Homelessness & Poverty have organized an effort to get three Iowa cities to repeal ordinances that ban “panhandling.”

Alexis Ostlund was just trying to get by.

About a month ago, she was outside of a downtown Des Moines coffee shop, on the sidewalk with a bowl and a sign that read, “Free Hugs.” But she says Des Moines police came along and told her she couldn’t panhandle, that it was against the law, and made her quickly pick up her things and leave.

Other homeless people in Des Moines report similar experiences. They say that they or homeless friends have been fined or jailed for panhandling. To Ostlund, it makes no sense to penalize poor people for asking for help. “If people are willing to ask, and people are willing to give, it shouldn’t have anything to do with laws and the police.” But many other towns and cities have similar ordinances.

Asking For Help is Free Speech

That’s why the ACLU of Iowa has teamed up with the National Law Center on Homelessness & Poverty to send demand letters to hundreds of cities with ordinances that forbid panhandling in public spaces, whether they do it verbally or with a sign. But a series of court decisions have made it clear: Laws that outlaw panhandling are unconstitutional because they wrongly block individuals’ free speech rights. They are also ineffective, because by criminalizing poverty, all they do is drive people further into homelessness. As a result, a number of larger cities have begun to repeal these draconian ordinances.

Other Cities Have Unconstitutional Laws

In Iowa, the ACLU sent letters to the cities of Des Moines, Council Bluffs, and Grimes. However, there are other Iowa cities that have similarly unconstitutional ordinances, which were not targeted with a letter.

ACLU of Iowa Legal Director Rita Bettis Austen said the ACLU encourages all Iowa cities to take a close look at their ordinances to make sure they don’t have bans or permit requirements on panhandling or solicitation—not just those cities we sent letters to. The three cities identified represent only an initial review of some of Iowa’s largest cities. A city that did not receive a letter shouldn’t determine that its ordinances pass muster.

While it may make people uncomfortable to see impoverished people asking for money,

or being asked for money, blocking their ability to ask for help is not a solution.

“Punishing homeless people with fines, fees, and arrests simply for asking for help will only prolong their homelessness,” said Maria Foscarinis, executive director at the National Law Center on Homelessness & Poverty. “Housing and services are the only true solutions to homelessness in our communities.”

“No one wants to see poor people have to beg for money,” said Eric Tars, senior attorney at the National Law Center on Homelessness & Poverty. “But their basic needs—food, health care, and housing—are not being met and they have the right to ask for help.”

Landmark U.S. Supreme Court Win

An important turning point in panhandling ordinances was the 2015 U.S. Supreme Court decision, *Reed v. Town of Gilbert*. It struck down these types of content-based regulations on free speech. As a result, every case since brought against panhandling ordinances—more than 25 to date—has been found unconstitutional. (A number of those cases were brought by the ACLU.) Also, since that U.S. Supreme Court landmark decision, at least 31 additional cities have repealed their ordinances.

The push to stop ordinances that forbid panhandling is part of the Housing Not Handcuffs campaign (www.housingnothandcuffs.org). It was started in 2016 by the National Law Center on Homelessness and Poverty, the National Coalition for the Homeless, and more than 100 other organizations to emphasize that criminalizing homelessness is the most expensive and least effective way of addressing homelessness.

The formal demand letter sent by the ACLU of Iowa is part of a coordinated effort among 18 organizations in 12 states targeting more than 240 similarly unconstitutional ordinances.

The ACLU of Iowa is joining this national campaign as part of a special project to address



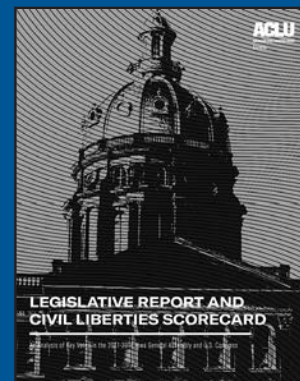
Several Iowa communities have ordinances that punish homeless people who ask for money with fines and fees, simply for asking for help. Alexis Ostlund, Des Moines, was told to move along simply for having a bowl and a “Free Hugs” sign on a sidewalk outside a coffeehouse.

criminalization of poverty in Iowa, which is also examining how court debt perpetuates downward spirals of poverty.

Shortly after receiving the letter from the ACLU, the City of Council Bluffs responded, saying it would repeal the relevant portions of its ordinances. ■



LEGISLATIVE SCORECARD



Find out how your state and U.S. representatives and senators voted on select, key civil liberties in this nonpartisan voting records analysis researched and prepared by the ACLU of Iowa.

Get your copy by emailing editor@aclu-ia.org or read it online at www.aclu-ia.org.



2018 ACLU of Iowa Award Winners

Donna Red Wing, One Iowa Receive the Louise Noun and Partners in Liberty Awards

It is fitting that as the ACLU of Iowa recognizes the work of One Iowa, it also recognizes its much-beloved former leader, Donna Red Wing.

One Iowa is this year’s recipient of the ACLU of Iowa’s Partners in Liberty Award. One Iowa was founded in 2005 to advocate for LGBTQ Iowans’ right to marry. The original goal of the organization was realized just four years later when the Iowa Supreme Court made the historic and unanimous *Varnum v. Brien* decision, making Iowa at that time one of just three states in the country that recognized same-sex marriage.

The organization then worked to make sure that the hard-fought wins for marriage equality would not be reversed. After it became clear that the recognition of the fundamental right to marriage was here to stay in Iowa, One Iowa shifted to a broader approach to ensure that LGBTQ Iowans’ rights and dignity are respected in every

facet and stage of their lives. One of the organization’s first major successes after this shift was working with HIV advocates to modernize Iowa’s HIV criminalization law in 2014.

One Iowa has also been an important partner with the ACLU, fighting together on transgender rights litigation and conducting advocacy and education on everything from student free speech to LGBTQ discrimination in public accommodations, such as wedding venues and public bathrooms.

Donna Red Wing is being awarded the Edward S. Allen Award posthumously from the ACLU of Iowa.

Donna led One Iowa as executive director from 2012 to 2016, and her impact was tremendous. She effected change with a signature blend of warmth and a willingness to listen, fueled by a ferocious commitment



Donna Red Wing speaks at a 2015 rally celebrating the U.S. Supreme Court decision that recognized same-sex marriage.

to making the world a better place.

It was Donna who led the expansion of the organization’s work into new areas after the battle for marriage equality ended.

She inspired a whole new generation of LGBTQ activists with work that spanned three decades. Donna was proud to be named “the most dangerous woman in America” by the Christian Coalition.

The award is named after the organizer and first leader of the ACLU of Iowa, Edward S. Allen, an Iowa State University math professor. It honors a notable Iowan who has spent a significant portion of their life fighting for civil liberties. ■

Melissa Hasso Honored for Extraordinary Legal Service

This award honors those who make sustained and extraordinary contributions to civil liberties through their work as ACLU of Iowa volunteer attorneys.



Melissa C. Hasso, partner with the Sherinian & Hasso Law Firm in Des Moines, has been selected to receive the 2018 Dan Johnston Cooperating Attorney Award.

She has been working with the ACLU of Iowa to represent Jesse Vroegh, a man who is transgender, in his civil rights case against the State of Iowa, his former employer. Vroegh,

who worked as a nurse, was denied the use of the men’s restrooms and locker rooms at work, as well as medical coverage for gender confirmation surgical care under his employer-sponsored insurance plan. That case is ongoing and is currently set for trial in early 2019.

Hasso’s efforts have been vital to the advocacy of the ACLU of Iowa in other ways as well. In her role as chair of the Iowa chapter of the National Employment Lawyers Association, Hasso has been instrumental in partnering with the ACLU to advance legislation that would protect pregnant women from workplace discrimination by requiring employers to provide them with reasonable accommodations—simple, common sense things like extra bathroom breaks, a stool to sit on when checking out customers, or the ability

to carry a water bottle even though it may deviate from a standard uniform.

Hasso has also volunteered to assist the ACLU and its immigrants’ rights partners in providing first-responder type pro bono assistance to immigrants in detention.

Also, Hasso serves as a member of the ACLU of Iowa Legal Committee, assisting in case evaluation and development. Legal Committee members also assist the ACLU by lending the benefit of their years of experience and expertise as litigators. For example, as an expert trial lawyer, Hasso’s consultation proved invaluable for the ACLU and Planned Parenthood attorneys in their successful litigation to stop the abortion law that would have required a second, medically unnecessary clinic visit followed by a 72-hour waiting period. ■

NAACP Leaders Receive Recognition for Civil Rights Work

For decades, these individuals have been contributing to the fight for racial justice in Iowa.

The Iowa-Nebraska NAACP and ACLU of Iowa have worked together for many years on racial justice issues. In recent years, three Iowa-Nebraska NAACP leaders have stood out for their work on racial profiling, voting rights, and other racial justice efforts.

As a result, Betty Andrews, Russell Lovell, and David Walker have been named the 2018 Louise Noun Award winners. With the support of the NAACP's more than 30 units throughout Iowa and Nebraska, the organization has broken new ground in Iowa with critical work under the direction of State Area President Andrews and the guidance of Legal Redress Committee Co-Chairs Lovell and Walker. That work includes:

- Working to reduce racial and ethnic profiling through legislation, education, community organizing, and advocacy with police and others. They have also

been involved in litigation.

- Educating and advocating on restoring voting rights to Iowans who have completed their sentences for a felony offense and raised awareness on the impact that disenfranchisement has on African-American communities and individuals

- Pushing back on efforts by the Iowa Secretary of State on voter ID and other initiatives that would keep qualified voters, especially voters of color, from the ballot box

- Working on Ban the Box/Fair Chance for Employment initiatives to help Iowans with criminal convictions rebuild their lives by more easily obtaining work. Since people of color are disproportionately charged with crimes, these initiatives are a racial justice issue.



Betty Andrews



Russell Lovell



David Walker

- Working for reform of the jury selection process in Iowa so that Iowa juries truly reflect a fair cross-section of the community
- Working to reduce other racial disparities in the criminal justice system, including promoting the need for consistent funding for drug and mental health courts; reducing the high cost of telephone calls to state and county prisoners and their families; and broadening the circumstances in which juveniles can keep delinquency court records confidential. ■

Bill of Rights Brunch November 10 to Honor Award Winners

Join us for our annual gathering of fellow civil libertarians!

We'll honor the award winners on these pages, reflect on the civil liberties fights of

the last year, and talk about strategy for the months ahead.

It's all part of the ACLU of Iowa Bill of Rights Brunch, Saturday, November 10, from

10:00 a.m. to 12:30 p.m. at the Downtown Hilton, 735 Park Avenue. Register with the coupon below or by going to our website at www.aclu-ia.org.

I/We look forward to attending the Bill of Rights Brunch! _____ attendees (\$60 single ticket & \$30 student ticket)

*Please provide guest names on separate sheet of paper.

SPONSORSHIP OPPORTUNITIES:

Yes, you can count on us! I/We will sponsor the Bill of Rights Brunch at the following sponsorship level:

\$250 - Advocate (4 complimentary tickets)

\$500 - Defender (8 complimentary tickets)

\$1,000 - Protector (12 complimentary tickets)

All Bill of Rights sponsors will be acknowledged in the printed program, on the ACLU of Iowa website, ACLU of Iowa social media sites, and in *The Defender* newsletter.

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Growing Our Grassroots In Every Corner of the State

A new focus on community engagement is enabling us to do outreach and education like never before.

Across Iowa, there is considerable energy for many of the issues the ACLU works on, such as immigration, LGBT rights, racial justice, and more. But with limited staff, it was difficult to tap into that people power and energy.

Now, with the creation of a Community Engagement Associate position, that's all changed. The ACLU now has more capacity to work with people across the state by connecting with community leaders and partner organizations, attending community events, giving Know Your Rights presentations, and engaging volunteers.

Building Connections

Kylie Gottschalk, who has considerable experience in electoral and issue organizing, came on board as the ACLU's first-ever community engagement staffer in February.

"I work to create connections and build relationships with supporters and leaders across the state who work, care, or are affected by the issues we work on and want to take action," Gottschalk said. "It is all about lifting up voices and having people feel connected to this team effort."

Gottschalk also has been responding to school and community group requests for know-your-rights presentations on what to

do when stopped by law enforcement, immigrants' rights, and student rights in their schools.

"Many people in our community are scared and feel powerless when it comes to knowing their rights. We want to empower them."

Gottschalk is spending a lot of time on the road. In recent weeks, she attended the Latino Festival in Council Bluffs, organized volunteers for Pride events in Cedar Rapids and Waterloo, and built training programs for new volunteers in Des Moines and Waterloo.

Training Activists and Volunteers

She's also building activist capacity. She's held two volunteer orientation sessions explaining the work of the ACLU and how volunteers fit into our programming. And she's the Iowa affiliate's point person for People Power, the national grassroots organizing effort coordinated by the national ACLU.



In August, Kylie Gottschalk (right) organized a table at Cedar Rapids Pride. She was joined by local volunteer Simone Frierson of Iowa City.

In January, when the Iowa Legislature convenes, she'll be able to capitalize on these volunteer and activist connections for a rapid response program to fast-moving legislation that impacts civil liberties in our state.

"Now more than ever, Iowans and people across the country are ready to take action to protect and advance civil liberties issues in our state. I'm excited to mobilize them and lead them towards strategic action that has an impact." ■

Encouraging Voting Through Voter Education

Continued from page 1

Voting Rights in Iowa flyer. This handy printed flyer, both online and in print, is being shared with our partner organizations for distribution in both Spanish and English.

In fact, the voting rights flyer has become a staple in some county auditors' offices because they appreciate the simple, straightforward, accurate information clearly presented.

Spreading Out Across the State

Daniel Zeno, ACLU of Iowa Policy Director, has become a point person for media on changes to Iowa voting laws and how they can disenfranchise certain voters. He is also traveling across the state, giving voting rights presentations and distributing information.

A key point that he continues to make is that even if a voter is questioned at the polls about their identity, that voter can sign an

oath to affirm that they are who they say they are and, importantly, cast a regular ballot.

Mark Stringer, ACLU of Iowa Executive Director, said voting rights work is some of the most important the ACLU does, and both the state and national office are putting considerable resources into voter education, advocacy, and litigation. "The right to vote is the cornerstone of our democracy. It's a fundamental right upon which all our civil liberties rest. We're doing all we can to make sure that all qualified Iowans register, that they are easily able to vote, and that they aren't blocked from voting because of unjust laws, lack of trained poll workers or lack of education about voting laws."

If any voters are turned away at the polls, we would like to hear from them. Please email us at advocacy@aclu-ia.org. ■



KNOW YOUR VOTING RIGHTS

Iowa Voter ID Quick Tips

- You are not required to show ID in 2018.
- Register to vote (or check your registration to make sure it's up to date).
- Vote (you can vote early or on Election Day).
- If you have any issues at the poll, ask to sign an oath.
- After signing an oath, you then can cast a regular ballot.

Don't be intimidated. Your voice is important so be sure to vote!

Ongoing Litigation for Abortion Rights Marked by Major Win

Continued from page 1

heart of what it means to be free. At stake in this case is the right to shape, for oneself, without unwarranted governmental intrusion, one's own identity, destiny, and place in the world. Nothing could be more fundamental to the notion of liberty."

The decision also recognized that "Abortion regulations impact different women in many different ways. Womanhood is not a monolith. There are few hurdles that are of level height for women of different races, classes, and abilities. There are few impositions that cannot be solved by wealth. Women of means are surely better positioned to weather the consequences of waiting-period requirements. Yet, it is axiomatic that a right that is only accessible to the wealthy or privileged is no right at all. Accordingly, on our review of the Act, we will measure its constitutionality by its impact on those whose conduct it affects."

Further, the Court understood that "Whether a woman is personally prepared and capable of assuming life-altering obligations and expectations is a decision about which the government has scarce insight."

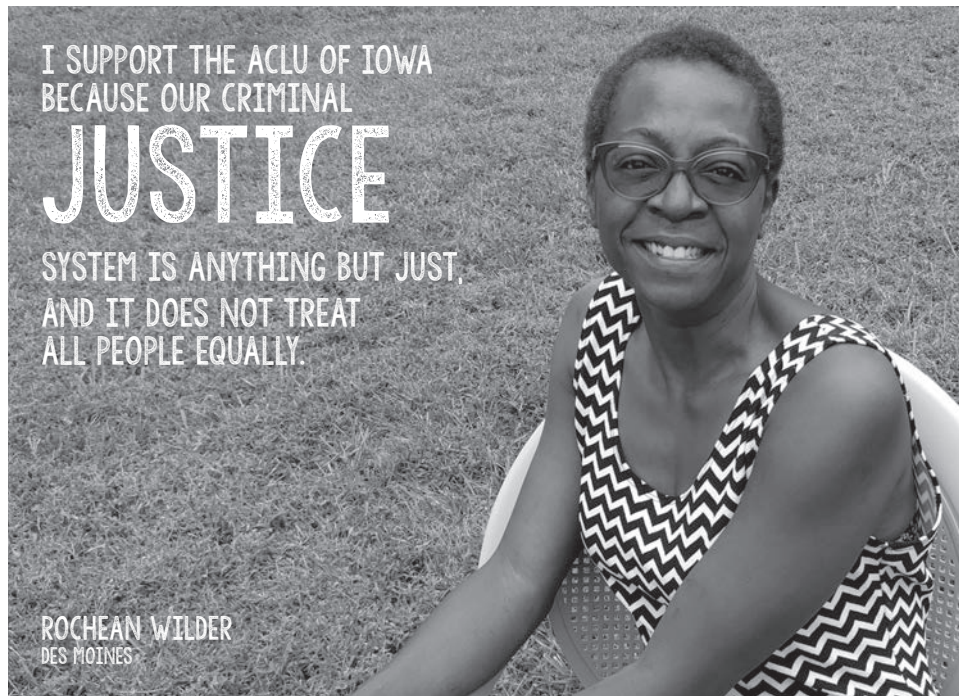
No Route to the U.S. Supreme Court

It's important to note that because this decision is rooted in the Iowa Constitution, the Iowa Supreme Court is the final word on the matter. The decision is not subject to appeal to the federal courts, including the U.S. Supreme Court.

Meanwhile, we are continuing to press forward with our current litigation to block implementation of the Iowa law that would ban nearly all abortions after six weeks.

A third-party organization that opposes abortion in all circumstances had asked the court to join the case. It had argued that the ban's exceptions for survivors of rape, among other things, violated equal protection, and asked the court to eliminate those narrow exceptions. We opposed the intervention, and the group was not allowed to join.

The 6-week abortion law will continue to be temporarily blocked until it can be litigated. We are looking forward to working with Planned Parenthood and the Emma Goldman Clinic to get the 6-week ban struck down permanently in district court. ■



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REGISTER NOW!



**The ACLU of Iowa
Bill of Rights Brunch**
Saturday, November 10
(See page 5)

Building Our Team with the Help of the Trump Bump

Since November 2016, both nationwide and here in Iowa, the ACLU has been receiving more donations than at any time in our history.

Our supporters realize that in these extraordinary political times, the ACLU is uniquely situated to push back on the recent and persistent assaults to our civil liberties, both at the national and state level.

We couldn't be more grateful for donor generosity at this critical time with what we have come to call our "Trump Bump" of support.

Leading the Resistance

Nationally, we continue to experience jaw-droppingly horrific violations of basic human rights, like the separation of families at the border.

With more people and financial firepower than ever, the ACLU has been able to take a leadership role in fighting back. But that's just one battle. Since President Trump's inauguration, we've taken

on the federal government in court more than 100 times.

In Iowa, we have been working to overturn restrictions on abortion rights, limitations on free speech, and denials of medically-necessary health care for transgender Iowans. But because of your generosity, we have been able to grow our capacity to do even more.

Doing More with More

We've added a new staff person to work on community outreach and legislative advocacy, to better engage our supporters, educate our neighbors, and to mobilize our activists.

We've extended a legal fellowship for a second year to document and reform court debt practices and work to end the growing criminalization of poverty in our state.

We're hiring an additional communications person to better inform the public of our issues and efforts by way of traditional and social media. And we will soon add another attorney to our legal

team to help us build upon our already full docket of cases.

Meanwhile, our board of directors has approved a bold strategic plan that will commit us to growing our footprint statewide on behalf of civil liberties. (Take a look at it for yourself at www.aclu-ia.org.)

In the days to come, you can expect us, with your help, to continue to make the case in the courts, in the legislature and in the public square for racial justice, for the rights of all Iowans, especially immigrants, LGBT folks, students, and women, and for access to the polls for every eligible voter. You can count on us, in large part, because we can count on you.

Thanks for standing with us!

Mark Stringer
Executive Director,
ACLU of Iowa

