



THE DEFENDER

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Newsletter of the American Civil Liberties Union of Iowa

ACLU, Partners File Lawsuit to Block New Abortion Law

On May 4, Gov. Kim Reynolds signed the most restrictive abortion law in the country. Just days later, the ACLU and Planned Parenthood filed a lawsuit to stop it from ever being implemented.

In an unabashed effort to overturn *Roe v. Wade*, cynical Iowa legislators have passed a bill that would all but ban abortion in Iowa and a triumphant Gov. Reynolds has signed it.

The so-called “fetal heartbeat bill” would ban most abortions as soon any embryonic cardiac activity is detected. That usually happens at around six weeks. And since most women don’t even know they’re pregnant that early, the law would be a virtual ban on abortion in our state.

The new law is beyond extreme and is clearly

an attempt to take a first step to block abortion for women across the country. Rightly, it has gotten notice from the rest of the country and the rest of the world.

Fighting Back with Litigation

The ACLU of Iowa, along with Planned Parenthood and the Emma Goldman Clinic of Iowa City, has struck back. Within days of the abortion law being signed, the ACLU and the others filed a lawsuit in Polk County District Court, asking that an injunction be issued to stop the law from going into effect July 1. It also asks the court to permanently strike down the law as unconstitutional.

“We will not allow extremist politicians to prevent Iowa women from accessing critical abortion services that allow them to control

their bodies and their lives,” said ACLU of Iowa Legal Director Rita Bettis.

This virtual ban could be even more harmful for women because of the minimum 72-hour abortion waiting period law that the Iowa Legislature passed last year.

The ACLU and Planned Parenthood have also filed a lawsuit in response to that law, which would impose a second, medically unnecessary clinic visit for women seeking an abortion. As of publication time, that lawsuit was awaiting a decision from the Iowa Supreme Court.

If for some reason that 72-hour wait took effect *and* the six-week ban also took effect, even if a woman learned of a pregnancy very early, she would then be delayed by the

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Free Speech Smells Sweet For Josh Harms of Sibley, Iowa

He stood up to town officials when they threatened to sue him for complaining about city inaction on odors from a local pork blood plant.

It was a quintessential free speech case.

After all, the ability of citizens to criticize their government is a fundamental, First Amendment right. Yet when Sibley’s hometown boy, Josh Harms, did just that on his website, he was threatened with legal action from the city. So he approached the ACLU of Iowa, which filed a lawsuit that succeeded in blocking the city from silencing Josh.

Josh says the agricultural blood processing plant moved to town five years ago and started producing a smell like “rancid dog food.” It was so bad, he said, that at times he couldn’t open his windows or run his air conditioner.

So he created a website called “Should you Move to Sibley?” that was critical of the city’s inaction in addressing the smell.

The city sent Josh a letter threatening legal action if he didn’t take down the website and

refrain from posting further “derogatory” content.

Intimidated, Josh altered the site to make it more positive. Under pressure, he even wrote on the site that the smell wasn’t as much of a problem anymore. But in actuality, he believed that while the plant smell had improved, it was still significant.

The city also instructed Josh not to grant an interview with a reporter who contacted him—even though the city *did* talk to the reporter and denied directing their attorney to send Josh the letter threatening legal action.

“As a web developer, the right to free speech, especially online, is extremely important to me,” Josh says. “Receiving this threat from the city



Josh Harms, a web developer, was threatened with legal action by the city when he created a website that criticized officials for not doing enough to stop the stench from an ag processing plant in his town.

was the first time I’ve ever felt afraid that what I might write and put online would make me a target of my own government. I want to use my skills as web developer to protest and to help my community. I grew up here. My family lives here. I’m trying to make the lives of myself and the people who live here better.”

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

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Keeping Tabs on Hundreds of Bills With Civil Liberties Implications

The 2018 legislative session was a textbook example of how much of our work is stopping or amending dozens of bills that would violate our basic rights.

The scope of legislation that can promote or violate Iowan’s most basic freedoms is awe-inspiring: free speech, freedom of religion and freedom from religion, criminal justice, racial equality, gender equality, LGBT rights, student rights, privacy and security, open government, reproductive freedom, immigrants’ rights, prisoner rights, voting rights, and more.

Fortunately, in past years our legislative capacity has grown, and we now have an expanded team that can analyze, track, and act on legislation and work with legislators on several dozen bills at a time.

That said, there was some legislation that stood out:

The Anti-Sanctuary Cities Bill

Along with the so-called fetal heartbeat bill, this was one of the worst pieces of legislation to come out of the legislative session. It was signed into law by Gov. Reynolds in April.

SF 481 was cloaked in a misleading name: the anti-sanctuary cities bill. But there is not a single sanctuary city in Iowa. The law is problematic in many ways, but the ACLU focused on how it violates the constitutional rights of anyone—whether immigrant or citizen—to be held in jail, without a warrant or approval of a judge, past the date she or he would normally be released.

That’s because Immigration and Customs Enforcement (ICE), the federal agency that enforces immigration law, issues a detainer request to a local jail based merely on ICE’s suspicion that a person might be undocumented. ICE wants the jail to hold the person until an agent can pick up the person. The ICE detainer request is not signed by any judge—it is based only on ICE’s suspicion.

A person can languish in jail for days longer than originally authorized, and perhaps lose their job, lose custody of their children, and more during the wait.

In fact, in Rhode Island, Ada Morales, a naturalized U.S. citizen, was erroneously detained with an ICE detainer request not once, but twice, over five years. The ACLU of Rhode Island sued successfully on her behalf.

The Iowa anti-sanctuary cities bill was touted as promoting public safety, but it was

opposed by a number of county sheriffs, police chiefs, and the Iowa Police Chief Association. They asserted that the bill actually made it harder to keep their communities safe. That’s because the law would create an atmosphere of fear and mistrust, making it harder for them to talk and work with local citizens.

The law, in fact, is so draconian that for a long while, the Iowa Minutemen were the only ones to register in favor of it. And it attracted national attention as one of the worst anti-immigrant bills in the country.

Even the terrible SB 4 bill out of Texas at least made exceptions for people who could prove U.S. citizenship or lawful immigration status to law enforcement.

Iowa’s SF 481 was even worse. The Iowa bill doesn’t make any exceptions for U.S. citizens or people with a lawful immigration status who can demonstrate their citizenship or immigration status to law enforcement.

Legislation Successfully Blocked

We were part of the effort to make sure that a number of bad bills didn’t progress. Some of the most egregious that didn’t make it to the governor’s desk for signing were:

The So-Called “Religious Freedom” Bill “Religious Freedom Restoration Act” bills (RFRA) have been cropping up all over the country, and Iowa is no exception. Senate File 2338 and House File 2209 were touted as religious freedom bills. But they were really bills that allowed people and businesses offering public services—everything from bakeries to hotels to dry cleaning—to discriminate based on religious beliefs.

For example, a coffee shop could refuse to serve a gay person or a gay couple. An unmarried couple or an interracial couple could be turned away at a motel. A bakery

Bills the ACLU of Iowa Declared On		
	2017	2018
Against	126	64
For	50	24
Undecided	43	16
Grand Total	219	104

Find out more about our new board members!

www.aclu-ia.org/2018newboardmembers



Daniel Zeno and Mark Stringer confer on legislative strategy during a legislative committee meeting at the Iowa Capitol earlier this year.

Iowa raised its ugly head. Many groups opposed it, including the ACLU, and fortunately it didn't become law.

Marsy's Law

Since 2008, a national campaign called "Marsy's Law" has sought to enshrine in state constitutions a specific set of victims' rights. The campaign's goal is to lock its formula into every state

constitution and then to amend the U.S. Constitution.

This year, the Marsy's Law campaign made its way to Iowa. Its supporters were skillful in making the amendment sound reasonable. After all, what could be wrong about protecting victims' rights?

But it's not that simple. Yes, of course: Crime victims deserve meaningful justice. The problem is that, though well-intended, the Marsy's Law formula would grant victims constitutional rights equal to the accused in criminal proceedings. That would undermine due process by creating conflict between victim and defendant rights. It also would exacerbate flagrant inequalities in our criminal legal system.

Working closely with the Iowa Coalition Against Domestic Violence, Iowa Coalition Against Sexual Assault, and others, we were able to stop this amendment. We expect to see this bill again next session and are already gearing up to continue this fight in 2019.

Good Legislation That Didn't Progress

There were also a number of good bills that didn't make it into law. But we'll keep pushing next session:

Pregnant Workers Rights Act

Most Iowa businesses provide reasonable accommodations for pregnant employees, like more time off for doctor's appointments or having another employee cover for a pregnant worker who is put on a lifting restriction. This bill would have addressed those businesses that put the health and economic security of a woman and her pregnancy on the line by not allowing such accommodations. It would require merely "reasonable" accommodation and has bipartisan support.

Racial Profiling Bill

Racial profiling by law enforcement is a serious problem, and we want to see legislation crafted that effectively reduces racial profiling in Iowa.

A racial profiling bill was introduced in the Senate this session but didn't make it to the Senate floor. We look forward to continuing to work with our partner organizations on another racial profiling bill push next session.

Traffic Cameras

As the ACLU has long said, the problem with traffic cameras is that they are far more about creating lucrative streams of revenues for cities and law enforcement and less about promoting safety.

Discussion and legislation on speed and red light cameras ranged from banning them completely to regulating them more carefully and uniformly. Ultimately, lawmakers were not able to agree enough to pass any bill that could advance to the governor. ■

could refuse to serve a Muslim woman wearing a traditional head covering. Fortunately, this bill didn't advance at all in the House and didn't get a floor vote in the Senate.

Transgender Bathrooms

House File 2164 attempted to codify which students could use which bathrooms. And it did so by rewriting portions of the Iowa Civil Rights Act.

The bill's goal was to force students and teachers to use the bathroom that corresponds with their birth gender, rather than the gender that they are currently. It showed an astounding lack of understanding of transgender people. It could have, for example, resulted in a transgender male student—who is and appears to be male—being required to use the girls bathroom.

This bill, fortunately, didn't even get a subcommittee meeting and was defeated.

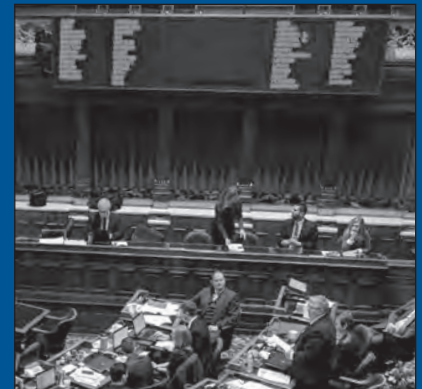
School Vouchers

There were many reasons not to like this bill, which would have provided state money to students attending private schools. But we opposed it on civil liberties grounds. Unlike public schools, private and parochial schools may discriminate against students based on sexual orientation, gender, disabilities, and other characteristics. So underwriting students who attend private or parochial schools in some cases would be funding schools that practice discrimination—like not allowing openly gay students. It failed to advance.

The Death Penalty

Iowa hasn't had a death penalty in nearly half a century. But once again, a bill that would have reinstated the death penalty in

HOW DID YOUR LEGISLATOR VOTE?



The ACLU of Iowa Legislative Report and Civil Liberties Scorecard is coming this fall! It is designed to give Iowa voters an at-a-glance understanding of how their local legislator voted on a selection of key civil liberties issues.

Every two years, at the conclusion of the Iowa Legislature's General Assembly (which spans two sessions), the ACLU analyzes a number of bills selected to illustrate a legislator's commitment to civil liberties, including free speech, voting rights, criminal justice reform, reproductive freedom, and more.

See the report in full by going to www.aclu-ia.org. If you would like a free copy, please contact us.



First Amendment Rights

Josh Harms is Now Free to Criticize his Town’s Inaction on Smells

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In late March, shortly after the lawsuit was filed, a federal judge issued a permanent injunction that blocked the city from making further legal threats.

The city also agreed to:

- Issue a written apology to Josh
- Cover \$20,475 in attorneys’ fees for the time that the ACLU and its cooperating attorney spent defending Harms’ speech rights
- Pay \$6,500 in damages to Josh
- Provide training on the First Amendment for city staff

The case was so egregious that it made national and international news, including coverage by the BBC and Der Spiegel.

“I’m happy that the City of Sibley has recognized they were wrong to threaten me for the criticism I’ve written and published online,” Josh said. “Personally disagreeing with something that’s been written is understandable, but threatening the writer with a lawsuit while representing the government is censorship. It violates the First Amendment and our freedom of speech.”

ACLU of Iowa Legal Director Rita Bettis said the case is important statewide.

“This victory sends a strong message to the

City of Sibley and all Iowa government officials to respect the free speech rights of Iowans,” Bettis said.

“Cases like Josh’s go to the core of the ACLU’s mission in protecting free speech, and we are grateful for his willingness to stand up for the First Amendment,” Bettis said. “The right of the people to freely and openly criticize their government is the very foundation of democracy. In America, the government cannot threaten legal action against someone for speaking out against it.”

Glen Downey of the Des Moines law firm Downey and Mundy served as a cooperating attorney and helped litigate the case. ■

Student Free Speech at Gun Violence Walkouts Supported

At a critical time in our nation’s debate on safety and gun rights, we made sure young people—and administrators—knew the basics on students’ fundamental right to speak out.

To support students and make sure educators were aware of their fundamental free speech rights, ACLU of Iowa Legal Director Rita Bettis sent an advisory letter to every single public school superintendent in the state.

The letter reminded administrators of three basic constitutional principles that protect student free speech and expression.

It also warned them that while they *could* discipline students for walking out during school hours, they could *not* punish them any more harshly than they would for any other type of unexcused absence.

Encouraging Civic Engagement

The letter also urged administrators to use this unique moment in history as a learning experience:

“This is a formative time for many students, as they learn that in our democratic system of government, their



Photo courtesy Lindsey Rubilatis/The Little Hawk student newspaper, Iowa City

In March and April, hundreds of students all across Iowa organized marches and protests on both sides of the gun safety and control issue. Shown here are Iowa City high school students in March.

voices matter, and when they come together to engage in civic dialogue, they can impact public policy. For them, this is a moment when this fundamental lesson in American civic responsibility that you’ve been teaching them in the classroom can come to life.”

Getting the Word Out

That same information was crafted into a guest column that ran on the editorial pages of several newspapers around the

state. The column was also blogged and pushed in social media, along with other social media posts, some of which was put on student pages created specifically to organize local marches.

“This is an excellent example of how the ACLU can offer vital leadership during moments like these,” said Executive Director Mark Stringer. “We can proactively educate students and teachers alike and encourage their fundamental participation in democracy.” ■

College Cheerleader Who Took a Knee and Then Resigned Wins Mannheimer Award

Buena Vista sophomore Alyssa Parker made national headlines when she resigned from her cheer squad rather than comply with college rules prohibiting her taking a knee to protest racial injustice.

Last September, 19-year-old Alyssa, along with several other cheerleaders at Buena Vista University, a private college in northwestern Iowa, decided to take a knee during the national anthem of a football game to bring awareness to police brutality and racial injustice. A photo of some members of the squad taking a knee made national news and irritated some college donors and alums. A week later, the private school instituted a policy that cheerleaders must stand for the anthem.

Refusing to Compromise

Alyssa was inspired to take a knee by the death of a Black Texas youth, Jordan Edwards, at the hands of white police when he was coming home from a party on his 16th birthday.

In her resignation letter, she wrote “the cheer team is very important to me, but so are my personal beliefs. Standing for something I know isn’t right shouldn’t be forced on me... Changing how this campus thinks about social injustice, helping people understand, and moving this conversation forward is the type

of thing I want to accomplish before I leave BVU. I don’t want to upset you or the team, but this is what I need to do.”

Her resignation also made national news, along with the repercussions and punishments doled out to other students who chose to take a knee last fall.

Online, Alyssa got both supportive and hateful comments, some strong enough to make her concerned for her safety. And, in fact, a few weeks later, someone wrote the N-word on her dorm room door.

Alyssa has not backed down. “I can’t sit still while kids like Jordan Edwards get shot and killed by police. I can’t just do nothing after experiencing racism myself. Resigning from my Buena Vista cheer team may be a small gesture, but I know it can make a difference.”

Other Winners

Second place in the contest recognized the high school leaders of Students Against Hate and Discrimination (SAHD) in Iowa City.

Third place went to Jaden Deal of Norwalk, an LGBT activist who works with other students and state leaders on civic engagement.

The ACLU of Iowa Robert Mannheimer Youth Advocacy Award recognizes students ages 14 through 19 who have made remarkable contributions to civil liberties. ■



Alyssa Parker loved being on the Buena Vista cheer squad, but when the school changed its policy and required cheerleaders to stand for the anthem, she decided to quit rather than compromise.

Celebrating a Series of Free Speech Wins

In the last few months, the ACLU of Iowa has had a number of free speech litigation successes:



Ag Gag Lawsuit Proceeds

In February, a federal judge gave an important green light to our lawsuit to strike down this law and protect free speech rights of journalists and whistleblowers reporting on conditions in agricultural facilities.



Yard Signs Are Free Speech, Too

In September, Windsor Heights agreed to change an ordinance that had resulted in threats (now dropped) of homeowner fines for displaying yard signs critical of local officials’ actions in a sidewalk building controversy.



And So Is Holding a Political Sign on a Sidewalk

The City of Marion changed its ordinance after we helped Rick Stewart, who was ordered to stop

holding a presidential candidate sign on a public sidewalk. Police told him he had to have a permit and three-day advance notice.

Lawsuit Filed to Block Iowa Abortion Law

Continued from page 1

mandatory wait period law—and then could likely no longer access abortion services at all.

There are “exceptions” in the abortion law, but they are written in such a way that few women will be protected:

- The law includes an exception for a medical emergency that is life-threatening. Doctors who are determined to have violated this exception would lose their licenses. This would put doctors in an impossible situation in trying to assess whether patients with serious conditions, such as hypertension or cardiac problems, were in enough danger to warrant an abortion.

- The law does not allow a woman to access an abortion she needs because of “psychological conditions, emotional conditions, familial conditions, or the woman’s age” even though the health—and even the life—of some women is at risk for those very reasons.

- The vague exception for a diagnosis that the fetus has a condition that is “incompatible with life” also puts doctors in an impossible position of balancing the health and well-being of their patient with the uncertainty of medical prognosis and the risk of losing their license.

- The law’s exceptions for rape and incest have strict reporting requirements that disregard the needs and lives of victim. They are also written poorly. For example, there isn’t even a definition of rape anywhere in Iowa law to base the exception on.

We know how devastating this law would be for Iowa women. If the six-week ban takes effect, those Iowa women who can scrape together enough resources will need to travel out of state to obtain an abortion. Those who can’t will be forced to carry an unwanted pregnancy to term, or in some cases will attempt to self-induce, including by dangerous means.

A hearing date of June 1 was assigned for the six-week ban lawsuit, right around publication time for this newsletter.

The lawsuit is being filed by the ACLU of Iowa and the Planned Parenthood Federation of America as co-counsel on behalf of Planned Parenthood of the Heartland and Dr. Jill Meadows.

The Emma Goldman Clinic of Iowa City is also a co-plaintiff in the case. ■

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5/2018DEF

Lessons Gleaned From a Tough Legislative Session

I've never been more proud of the work the ACLU of Iowa does than in the past few months, when I had the privilege to see up close—and play a role in—its critical legislative work.

We've had some civil liberties setbacks; that's for sure. But being a witness to the work of our savvy and strategic team in my first year as executive director has taught me much about the essential role the ACLU of Iowa plays in defending and advancing the rights of all Iowans.

Here are some of the things I have learned:

The breadth of the civil liberties concerns at the statehouse is wide.

Any time proposed legislation has a civil liberties component, we carefully review it and evaluate its potential impact.

This session alone we tracked more than 100 bills, providing our perspective in conversations with legislators, in committee meetings, and at hearings, especially when violations of constitutional rights could

occur were the bills to become law. I've been surprised by the number of proposed bills that raise civil liberties concerns and I'm grateful that our team is consistently there to call attention to them.

Our legislative work isn't always the type that grabs headlines.

So much of what we do may not be apparent, even to supporters who follow the ACLU of Iowa closely.

For every unconstitutional bill that gets signed by the governor, such as the awful recent abortion ban and anti-sanctuary cities bill, there are many other bills we help stop before they get far enough to even be noticed by most citizens.

At the same time most people don't see the work we do to advance good legislation, to help legislators draft bills or amendments, or to consult and brainstorm with them on bills that protect civil liberties.

We stand on principle—always.

I am proud that the ACLU can be counted

on to honestly and respectfully share our civil liberties expertise with all legislators, regardless of party affiliation.

In the hyper-partisanship of the current day, telling the truth, having integrity, and being respectful matters. Legislators (and supporters) don't have to wonder where we stand.

We're able to have this influence because of people like you. The ACLU of Iowa is supported entirely by donors—not government or partisan grants.

So thank you for making our efforts possible. It's during difficult legislative years like this one that I can't imagine what would happen if the ACLU weren't here, fighting and advocating every step of the way.



Mark Stringer
Executive Director,
ACLU of Iowa



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Bill of Rights Brunch
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More information to come



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