A TIME TO FIGHT

2017 KANSAS LEGISLATIVE UPDATE

ACLU
AMERICAN CIVIL LIBERTIES UNION
of KANSAS
Today’s national political climate is more hostile to civil liberties than it has been in generations. When the 2017 Kansas Legislature convened and some lawmakers sought to erode dignity, equality, freedom, and civil rights, the ACLU of Kansas knew that this was a time to fight.

When the 2017 Kansas legislative session began, civil liberties advocates were optimistic that the state’s political environment would be less toxic than in years past. After all, Kansans elected a more moderate legislature last November. But extremists still wield enormous power in state government. During this legislative session, those extremists were emboldened by the Trump Administration’s unprecedented anti-civil liberties agenda and introduced dozens of bills targeting women, immigrants, the LGBT community, and the right to vote.

The relentlessness of those attacks meant that 2017 was a time to fight. The ACLU of Kansas mobilized activists from across the state to defend civil liberties. With support from ACLU members and coalition partners, we repelled most of the attacks: fewer bills hostile to civil liberties passed during this session than any other year in recent memory, and the freedoms of all Kansans were strengthened.

The battle over SB 37 is just the beginning. The ACLU of Kansas is currently winning its four active lawsuits against Sec. Kobach over his voting rights policies; as such, we expect Sec. Kobach to continue to try to preserve his failing voter suppression experiment through legislative change.

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**THE CIVIL LIBERTIES MOVEMENT FOUGHT BACK. AND WON.**

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of Kansas strongly supported two bills to enact Election Day voter registration, making voting easy and ensuring that eligible citizens aren’t turned away at the polls just because they are not on an outdated roll or due to an arbitrary deadline. These bills did not receive hearings in 2017, but are priorities for the ACLU of Kansas in 2018.

DEFENDING THE RIGHTS OF IMMIGRANTS
Extremists continued to attack immigrant communities in Kansas during the 2017 session. Five separate anti-immigrant bills were introduced, including three that would have imperiled our communities by prohibiting local governments from enacting “sanctuary” policies. Two bills, SB 158 and HB 2275, would have forced law enforcement agencies to detain people without probable cause or due process, based simply on a federal agency’s unsubstantiated suspicion that they could be undocumented immigrants. Another bill, SB 157, was authored by Kris Kobach himself and would have deputized the entire Kansas Highway Patrol as federal immigration agents! Doing so would divert badly needed law enforcement resources away from real community safety issues, undermining police-community trust along the way. Joined by faith-based organizations, immigrants’ rights advocates, and law enforcement voices wary of overruling local decision-making, the ACLU of Kansas led the opposition to these bills. Thanks to the work of this broad coalition, none of the anti-immigrant bills made their way to floor for a vote.

REFORMING OUR CRIMINAL JUSTICE SYSTEM FROM END TO END
The criminal justice system in Kansas is at a crisis point. The state’s prison population has risen to an all-time high of nearly 9,900 people, exceeding capacity, even as crime falls to all-time lows. Keeping these Kansans incarcerated cost the state $229 million in 2016 and wreaks devastation on our communities. That’s why the ACLU of Kansas and our Kansans for Smart Justice coalition partners have taken a comprehensive approach to reforming the state’s criminal justice system from entry through release. In 2017, we made real, if gradual, progress on this front.

The ACLU worked with legislators to introduce HB 2063, a bill that would encourage prosecutors to use diversion more often. Diversion is a tool prosecutors have to fix our broken criminal justice system. Prior to filing charges, prosecutors can divert offenders into treatment, restitution, and community programs, which improve long-term outcomes for families and communities. Despite diversion’s benefits, Kansas prosecutors use this tool at a rate of just half the national average. HB 2603 would work to change that, encouraging prosecutors to use diversion more often by creating a uniform application, improving data collection, and streamlining the process. This year, the bill received a committee hearing with supportive testimony from individuals and organizations across the ideological spectrum. However, the bill was opposed by county prosecutors who want to maintain the status quo, and no committee vote has been taken. Strong support from civil liberties activists can make a difference in passing this legislation in 2018.

A slew of bills on reforming Kansas’s civil asset forfeiture laws were heard in a House committee. Currently, law enforcement can seize an individual’s property based solely on suspicion, and the process makes it hard for property owners to fight to defend their private property rights. Civil asset forfeiture laws violate basic due process rights and threaten the property rights of citizens. Over $53 million of Kansans’ private property has been taken by the government.

CIVIL LIBERTIES BILLS INTRODUCED IN KANSAS, 2017

23 bills attacking civil liberties

41 bills defending civil liberties

CIVIL LIBERTIES LAWS ADOPTED IN KANSAS, 2017

2 new laws attacking civil liberties

2 new laws defending civil liberties
through this process. The ACLU of Kansas strongly supported bills to reform the process, including adding a requirement that an individual be convicted of a crime before the government could seize property. The reform bills—SB 3, SB 4, HB 2003, HB 2004, HB 2018 and HB 2116—have all been referred to an interim body that studies technical issues, which will issue recommendations to the Legislature by January. The ACLU of Kansas will monitor those proceedings to make sure that the right of due process is strengthened.

REPRODUCTIVE FREEDOM STILL UNDER ATTACK

One issue where the 2017 Kansas Legislature was not friendlier to civil liberties than in years past was reproductive freedom. The Legislature continued its long tradition of chipping away at constitutionally-protected reproductive rights. The reproductive health community successfully kept several bills limiting the ability of a woman to make her own healthcare decisions from passage. However, one new restriction, SB 83, made it to Gov. Brownback’s desk, where it was promptly and enthusiastically signed. Drawing national attention and ridicule, SB 83 is the infamous “font bill,” which imposes absurd and constitutionally suspect regulations on reproductive healthcare providers—such as mandating that patient forms be printed in Times New Roman, 12 point font in black ink on white paper. More troublingly, the law requires that personal information about doctors performing abortion procedures be distributed, the most recent in a long line of bills designed to harass and intimidate doctors and women away from reproductive healthcare. The ACLU of Kansas will continue to fight for reproductive choice in the legislature and in court.

PROTECTING FREE SPEECH

The other major civil liberties setback of the year came with the passage of a law that attacks free speech. HB 2409 prohibits any individual or company engaged in a boycott of Israel from contracting with any unit of state government. The ACLU takes no position on the boycotts themselves, but the new law gets to the heart of one of our most basic rights by punishing people and businesses that engage in protest. The bill’s language means that college professors engaged in a boycott could have their employment rescinded, or that privately-owned businesses may be forced to silence themselves if they’re seeking a government contract. The law’s premise raises constitutional issues. If the premise that the government can punish those whose speech it dislikes stands, future legislatures could punish businesses that speak up in favor of LGBT equality, reproductive health, or racial justice. Regardless of the speech involved, the ACLU of Kansas will always protect our First Amendment right to free speech and protest.

LOOKING AHEAD TO 2018

Fewer anti-freedom bills passed in 2017 than any other legislative session in recent memory, but the fight for freedom is never over. In 2018, the Kansas Legislature can take up any of the bills that did not advance this year and introduce new ones. The ACLU of Kansas is mobilizing now to defend constitutional rights next year. Especially with the Trump Administration inciting anti-civil liberties policy at every turn, there will no doubt be sustained attacks on reproductive health, on immigrant communities, and yet another attempt to patch up Sec. Kobach’s failed experiment in voter suppression. But we are also preparing to wage proactive campaigns for criminal justice reform and the right to vote for all citizens.

While this was one of the better years for civil liberties in Kansas, we must continue to fight for freedom. Our success in the 2018 legislative session depends on you. Your support provides the ACLU of Kansas with the power needed to defend our freedoms in the statehouse, in court, and in every community across Kansas.

Support from activists like you is crucial to winning the fight for freedom in Kansas. Learn more at www.aclukansas.org