

ACLU of West Virginia 2010 State Legislative Roundup

Marriage Amendment Fails Again (House Joint Resolution 5)

For the second time in as many years, an exceptionally well organized and even better funded effort to place a referendum on the November ballot "defining marriage" in West Virginia failed to gain significant traction at the State Legislature. Even as the rest of the country moves toward more fully accepting our LGBT brothers and sisters, out of state powers are convinced that West Virginia represents the best opportunity to notch another win in the column of inequality. Despite a few media dustups and a few attempts at parliamentary shenanigans, this measure never saw the light of day.

Sneaky DNA data-banking legislation dies (Senate bill 197)

Under the guise of "getting in line with what the Feds are doing," WV law enforcement attempted to pass legislation that would have led West Virginia down the road of partial DNA match analysis. For those unfamiliar, this is a technique where criminal investigators may lower the threshold of DNA matches to create a much larger web of suspects. In addition to depriving persons of 4th and 5th Amendment rights, these schemes of criminal investigation, in most instances, lead to more wild goose chases than productive leads and convictions. Further, the bill would have also expanded West Virginia's DNA data-bank to a level of cooperation if not collusion with the FBI, adding to the "YIKES" factor. Fortunately, this one went down in Senate Finance.

How really bad legislation gets neutralized (House bill 4188)

What was originally titled the "Anti-Criminal Street Gang Act," or House bill 4188 started out the legislative process as one of the worst bills we have seen in years. However, your ACLU of West Virginia worked overtime to assure that it ended up in a form that would not further exacerbate West Virginia's already problematic racial profiling problem. The full story of this legislation's journey through House of Delegates and State Senate makes for a textbook lesson on how to negotiate the sometimes tricky waters of the State Capitol. What began as a bill that would have no doubt increased racial profiling and further crippled trust between minority communities and law enforcement ended up as legislation that will establish parameters and guidelines for how law enforcement may engage all organized criminal activity (not just kids hanging out.) The final product (and a big thanks goes out to the Senate Judiciary committee for basically rewriting the entire legislation) even included language mandating anti-racial profiling training for West Virginia law enforcement personnel. If you've never been proud of your affiliate in the past, you should be now. When it comes to this legislation, ACLU of WV helped neutralize a potential public policy disaster.

How really bad legislation gets neutralized, Part 2 (Senate bill 597)

No legislative wrap-up in West Virginia would be complete with out a battle to protect a woman's constitutional right to make her own medical decisions free from government interference. 2010 was no different as anti-choice political operatives set their sites on legislation aimed at intimidating women seeking abortion by pushing legislation to amend the already bad "Women's Right to Know Act." The legislation in question would have required doctors to offer a woman seeking abortion the opportunity to view an ultrasound prior to the procedure. What may seem, at first, as innocuous, had just enough legislative language at the beginning of its legislative journey to be very bad policy. However, four committee hearings, one public hearing, and two floor votes later, the legislation was watered down to the point of being toothless. Additionally, one silver lining of the final legislation was that the draconian penalties proposed for doctors who do not comply were eliminated. The authority to discipline doctors was transferred to the Boards of Medicine whom regulate these matters anyway. A special shout out to WV FREE for their tireless work on this. Everyone concerned about these very important issues owe them a personal debt of gratitude.

Civil forfeiture expansion poses serious threats (House bill 4382)

For the most part, West Virginia has not embraced the idea of property forfeiture as a means of law enforcement strategy. We do have forfeiture laws on the books, and in some cases the government can take your property away; but had House bill 4382 passed, West Virginia would have taken that idea to a level incompatible with individual freedom. In its original form, House bill 4382 would have allowed law enforcement to seize a person's property if they believed it to be in any way party to a large list of crimes (crimes against bingo, charitable raffles, credit cards, kidnapping, etc.) The government would not have been obligated to even give you a court hearing beforehand. Talk about bad news. As other parts of the country deal with the negative affects aggressive forfeiture laws have on their communities, West Virginians can breathe a sigh of relief. This bill, despite passing the House, died in The State Senate.

Joint Committee on Minority Issues successfully advances policy initiatives

It has been just over one year since ACLU of West Virginia drafted and had introduced (with the assistance of Senator Dan Foster (D-Kanawha) Senate Concurrent Resolution 61. The purpose of the resolution was to further study the results of the Traffic Stop Study and recommend possible legislative action to remedy the state's racial profiling problems. The resolution ultimately re-established the Joint Select Committee on Minority Issues, and just before the legislative session started, that committee recommended three pieces of legislation to the whole legislature for passage. The policy measures recommended included establishing a senior level office of Minority affairs answering to the Governor, mandatory racial profiling avoidance training for West Virginia law enforcement, and legislation establishing badly needed standards governing consent based searches of motorists on West Virginia highways. At the end of the regular session, ACLU of WV is pleased to report that two of the measures, training for law enforcement officers and standards governing consent based searches have completed the legislative process and await action by the Governor. The office of Minority Affairs has been remanded to the final budget bill and we hope it makes it through to the end of that process. We will have another update when action on all of these important items is finalized.

Legislation prohibiting shackling of pregnant prisoners passes (House bill 4531)

Legislation that will prohibit, with the exception of extreme circumstances, the shackling of pregnant prisoners during labor and delivery passed this legislative session. Although such a policy previously existed for the state prison system, no guideline for regional or county jails was in place-until now. A collective Huzzah!! goes out to Delegate Bonnie Brown (D-Kanawha) and Charleston Women's rights activist Bettijane Burger for their hard work pushing this victory over the top.