



Eastern Region Office  
PO Box 40008  
Philadelphia, PA 19106  
215-592-1513 T  
215-592-1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717-238-2258 T  
717-236-6895 F

Western Region Office  
313 Atwood St.  
Pittsburgh, PA 15213  
412-681-7736 T  
412-681-8707 F

## MEMORANDUM

**TO:** ACLU of PA Board of Directors, ACLU of PA Staff

**FROM:** Andy Hoover, Legislative Director

**DATE:** February 19, 2010

**RE: LEGISLATIVE UPDATE FOR MARCH 6 BOARD MEETING  
(REVISED- FEBRUARY 25, 2010)**

The Pennsylvania General Assembly is largely back to normal after the 2009-10 budget debacle that was not totally completed until early January when the legislature approved gaming reform and table games.

We have had multiple active issues in recent months.

### **Juvenile Justice: Sexting and Police in Schools**

House Bill 2189 would make various forms of sexting a 2<sup>nd</sup>-degree misdemeanor. The bill is written so broadly that constitutionally protected activity would be criminalized. If this bill became law, one of our clients in the Wyoming County case could be arrested. We also have grave concerns about criminalizing kids for behavior that is irresponsible but that stems from their normative sexual development.

The House Judiciary Committee was twice scheduled to consider House Bill 2189, first on January 26 and then on February 9. Both times the bill was pulled, and I am certain that the bill was pulled both times due to our efforts, in tandem with the Juvenile Law Center. We have been publicly and privately urging for a public hearing.

You may recall discussing Senate Bill 56 at previous board meetings. This bill would mandate school administrators to call the police when certain offenses occur. The bill is narrower than when it was first introduced, but we still oppose it. The Disability Rights Network of Pennsylvania and Education Law Center, among others, have been leading this effort, and I've been assisting, as I'm able. The bill passed the Senate last year and is currently in negotiations between the House and Senate over a broader, omnibus bill on the public school code.

### **Reproductive Rights: Shackling pregnant inmates and Sex Education**

Senate Bill 1074 would ban state prisons and county jails from shackling pregnant inmates during labor. As many have noted, it's hard to believe we even need a law to

stop this, but we have anecdotal evidence indicating that this does happen. Carol and I have been working with a coalition spearheaded by Community Legal Services and the Pennsylvania Prison Society. SB 1074 passed out of Senate Judiciary Committee on January 26 and is expected to get a floor vote in the Senate sometime this spring.

Carol and I continue to coordinate with Pennsylvanians for Responsible Sex Education, a coalition Carol co-convenes with Planned Parenthood and Pennsylvania Coalition to Prevent Teen Pregnancy, on House Bill 1163, the Healthy Youth Act, and House Bill 1162, the Notice Home Act. HB 1163 requires Pennsylvania's public schools to teach comprehensive sex ed, and HB 1162 requires public schools that teach abstinence-only-until-marriage sex ed to send a notice home to parents about the curriculum. We're expecting a vote on these bills in the House Education Committee in March.

#### **LGBT Rights: Constitutional amendment on marriage and other issues**

It's baaaaaack. Senate Bill 707 was introduced in February. The bill amends our state constitution to ban same sex marriage. We are confident that we will beat this bill for the third time, but I am, nevertheless, spending considerable time coordinating our allies in opposition. From what I've been told, we can expect a vote in the Senate Judiciary Committee soon. I'm planning as if that means sometime in March.

Along with SB 707, there is a strong possibility that HB 745, the hate crimes bill, will get a vote in the House this spring, so many of our LGBT allies have been focused on these two pieces of legislation. As you know, the ACLU of PA neither opposes nor supports HB 745. It's not clear at this time if HB 300, the non-discrimination bill, will get a vote in the House anytime soon.

#### **Privacy and Surveillance: Powers of the Game Commission**

House Bill 181, a bill to bring the powers of Game Commission officers to conduct stops and searches in line with the same standards followed by the police, passed the Senate Game and Fisheries Committee on January 26. We are now two steps away-passage by the Senate and a signature from the governor- from this bill becoming law. We expect a vote in the Senate, with enthusiastic support, sometime this spring. The governor's position is not yet known.

#### **Immigration: E-Verify**

House Bill 1502, mandating the use of the federal E-Verify worker verification program by state contractors, and House Bill 1503, mandating the use of E-Verify by all construction employers, passed the House Labor Relations Committee in December. We are hopeful that we can stop these bills somewhere along the trail. The vibes we're getting from the House and the Senate indicate that there is a lot of

discomfort with passing these bills, and the Rendell administration recently announced its opposition.

**HIV-AIDS: Forced testing of sexual assault defendants**

House Bill 265 would require a court to issue an order for a forced HIV test for a person held for court on a sexual assault charge. In December, the House Judiciary Committee held a hearing on this bill. Ronda Goldfein and I testified in opposition, along with two representatives from the Pennsylvania Coalition Against Domestic Violence. I am hopeful that this bill will not move.

**Criminal Justice: Death penalty**

Due to political considerations, we believe this year is the year to pass legislation to bring Pennsylvania into compliance with the Supreme Court's 2002 *Atkins* decision. You may recall that SB 628 passed the Senate in July by a vote of 45-2. This bill would require a judge to decide before trial if a defendant has mental retardation and cannot face the death penalty. I continue to work with the Arc of PA, DRN-PA, and other advocates to successfully move SB 628 in the House.

In January, I testified with Ashlee Shelton of Pennsylvanians for Alternatives to the Death Penalty before the House Judiciary Committee about the broader issue of the death penalty. At that meeting, several reps from both parties verbalized their willingness to pass a study on the death penalty. Several reps also expressed their support for SB 628, including some reps who have voted against us in the past or have been associated with the DAs' attempts to pass a post-trial procedure.

The Pennsylvania Moratorium Coalition, which is organized by PADP and ACLU-PA, is holding a lobby day on March 16.

**Criminal Justice: Sentencing reform**

The Department of Corrections is currently moving 2,000 inmates to prisons in Michigan and Virginia due to overcrowding. The commonwealth is building four new prisons between now and 2013. And we're in the midst of a financial crisis. As a result, we believe that the time is ripe to move forward on sentencing reform issues that we've talked about for decades. I'm working with a coalition of groups to make that a reality.

As always, you are welcome to contact me at anytime with questions or comments about activity at the legislature.