



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

TO: ACLU-PA Board of Directors
ACLU-PA Staff

FROM: Andy Hoover, Legislative Director

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

DATE: November 18, 2009

RE: LEGISLATIVE UPDATE

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

Impact of 101 day budget impasse

In early October, the General Assembly passed and the governor signed the FY 09-10 budget, which was due on June 30. Because the ACLU of PA does not work on budget issues, generally, we did not have a stake in the outcome. However, the delay did impact our work. With the budget hanging in the balance for 101 days past its deadline, all other business was put aside. Committees did not meet, and the legislature did not go about the normal business it would conduct in September and October.

The legislature is currently playing catch up with session days in November and December.

Victories!

We did have to fight off a few negative initiatives and did so successfully.

Welfare amendments: The budget deal included the need to pass some language amending the welfare code, and as typically happens when a welfare code bill is moved, a group of legislators introduced amendments to harm people on public assistance. The most noxious amendments from the ACLU's perspective were those requiring drug testing for recipients of public assistance and an increased ID requirement. Attorneys from Community Legal Services, Community Justice Project, and I worked together to convince the House leadership to only move a bill without those amendments, and they did so successfully.

Amendments on House Bill 843: HB 843 dealt with the Attorney General's jurisdiction in sexual abuse cases. Amendments on sex offenders and fetal homicide were introduced to this bill. The sex offender amendments included a residency ban and post-prison GPS monitoring. The fetal homicide amendment lifted the ban on the death penalty for persons convicted of that crime and allowed a person to be convicted of the crime even if the perpetrator did not know that the woman was pregnant.

Working with the Pennsylvania Prison Society, the Defender Association of Philadelphia, and Pennsylvanians for Alternatives to the Death Penalty, we again convinced House leadership to only run the bill without the amendments. They did so, in part because the representatives who introduced the amendments were Democrats.

LOOKING BEYOND THE BUDGET....

There are multiple issues that have arisen since the budget was passed and on the immediate horizon.

Criminal Justice: Mandatory Minimum Sentencing and Prison Overcrowding

In October, the Pennsylvania Commission on Sentencing released its study on mandatory minimum sentencing, as directed by House Resolution 12, a resolution we supported in the 07-08 session. The commission found that mandatory minimums have no deterrent effect in stopping people from committing crimes and that only 1/3 of the public can name an offense that carries a mandatory. The study also found that only 15 percent of people charged with a mandatory-eligible offense ever serve a mandatory minimum sentence.

The study made several recommendations, including reduction of the school zone mandatory from 1,000 feet to 250 feet and increase in the minimum of cocaine necessary in possession to trigger a mandatory. The commission's executive director has presented the study's findings at hearings before the House Judiciary Committee, House Democratic Policy Committee, and Senate Judiciary Committee. I also testified at the Senate hearing, which focused on prison overcrowding, and am currently working with members of the House and Senate to implement the study's recommendations.

LGBT Rights: Non-discrimination and more

The future of House Bill 300- the bill to amend PA's civil rights law to include sexual orientation and gender identity or expression- is murky. We are working on multiple strategies to get the bill moving. It is currently in the House Appropriations Committee.

Despite an announcement in May by Senator Eichelberger that he would introduce a bill to amend the state constitution to ban same-sex marriage, that bill has not yet been introduced. Although we have some allies who are confident it will go nowhere, we are preparing for it to be introduced and to move in the Senate.

We expect other pro-LGBT bills to be introduced after the New Year.

Reproductive Rights: Comprehensive sex education

Carol, her interns, and I continue our work with Pennsylvanians for Responsible Sex Education (PARSE), a coalition co-convened by ACLU-PA, to move House Bills 1162 and 1163. A hearing on the bills will be held in the House Education Committee in December, and we expect the bills to be moved soon thereafter.

Immigration: E-Verify

House Bills 1502 and 1503, requiring state contractors and construction employers, respectively, to use the federal E-Verify system, are scheduled on the House Labor Relations Committee

agenda for December 8. Our work with SEIU, PICC, business groups, and other pro-immigrant advocates in opposition to these bills continues.

HIV-AIDS: Mandatory testing for sexual assault suspects

The House Judiciary Committee is scheduled to hold a hearing on December 10 on HB 265. This bill requires a court to order an HIV test for a sexual assault suspect upon the request of the victim. The ACLU also opposes all forms of mandatory HIV testing. The Pennsylvania Coalition Against Rape and the Pennsylvania Coalition Against Domestic Violence also oppose this bill. The vibe I'm getting, unfortunately, is that this bill could move.

Death Penalty: Mental Retardation

As I've previously reported, SB 628 passed the Senate, 45-2. This bill implements a pre-trial proceeding to determine that a homicide defendant is mentally retarded and cannot face the death penalty. We support this bill, along with about a dozen disabilities rights groups. We continue to work with the Arc of PA and our legislative friends on strategy to move this bill in the House, where it has been stopped in the past.

Criminal Justice: Innocence

In October, the House Democratic Policy Committee held a hearing on wrongful convictions, at which I testified. In the near future, we expect the Senate's Advisory Committee on Wrongful Convictions to release its report, and that could give new life to bills to compensate persons who are exonerated, to automatically expunge their criminal records, to mandate the preservation of biological evidence, and to change protocol for eyewitness identification.