

# LIBERTY

Fall 2016

ACLU of North Carolina Newsletter



## Protecting the Right to Vote

### Voter Suppression Law Struck Down in Major Victory for Democracy

**I**n a major victory for North Carolina voters and democracy, North Carolina's 2013 omnibus voter suppression law has been struck down by federal courts, allowing eligible voters across the state to register and vote in the 2016 election free of the unnecessary obstacles imposed by the General Assembly and Governor Pat McCrory.

The unanimous ruling from a three-judge panel on the U.S. Court of Appeals for the Fourth Circuit blocks the state's restrictive voter ID requirement and restores a number of popular voting methods eliminated by the 2013 law, including same-day registration, a week of early voting, out-of-precinct

provisional voting, and preregistration for 16- and 17-year-olds. Hundreds of thousands of North Carolinians, including a disproportionate number of African American voters, have relied on those measures to cast their votes in past elections.

The American Civil Liberties Union, ACLU of North Carolina, and Southern Coalition for Social Justice had filed a lawsuit challenging several of those restrictions on behalf of the League of Women Voters of North Carolina, the North Carolina A. Philip Randolph Institute, North Carolina Common Cause, Unifour Onestop Collaborative, and several individuals.

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Because Freedom Can't Protect Itself



**LIBERTY**

Volume 49 Issue 3 • Fall 2016

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**From the Executive Director**

I am deeply honored to have joined the ACLU of North Carolina as Executive Director at such a pivotal time in this organization's history. As a veteran of the ACLU who has served as the National Board Representative and president of the ACLU of New Hampshire, I know how important our organization and its members are to protecting civil liberties for the most vulnerable. I know, moreover, that this affiliate's litigation and advocacy work is poised to be precedent-setting not only for this state, but across the United States.

As North Carolina confronts unprecedented assaults on voting rights, LGBTQ equality, reproductive freedom, racial justice and other civil liberties we once thought were secure, I am proud and heartened to know that the ACLU-NC stands at the forefront of all these struggles, fighting for the rights of everyone who calls this state home.

Just this year, the ACLU-NC helped bring an end to the worst voter suppression law in the nation, making it easier for thousands of North Carolina voters to participate in the November election. We won an early victory for three of our clients in our legal challenge to HB2, one of the most egregious anti-LGBTQ laws in the nation, and are fighting for broader relief for all who are harmed by the discriminatory law (page 5). We are working with communities across the state to hold law enforcement accountable for their actions (page 6) and reform unconscionable solitary confinement practices (page 9); and we are now closer than ever to persuading lawmakers to finally raise North Carolina's age of juvenile jurisdiction so that 16- and 17-year-old offenders are no longer automatically sent into

the adult criminal justice system (page 9).

To meet these challenges and more, I am proud to say that the ACLU-NC now boasts the largest staff in our organization's 51-year history—and we are continuing to grow. We have hired new staff to support our legal, communications and policy departments and build a campaign to protect abortion access and advance reproductive freedom (page 7).

Just this month we welcomed our newest position—Criminal Justice Debt Fellow—to coordinate statewide efforts to combat excessive and unjust court fees that indigent defendants can never afford and the enforcement of which has created modern-day debtors prisons. And we are now advertising for another new position—Director of Philanthropy (see [acluofnc.org](http://acluofnc.org) for details)—to help our office grow its capacity to meet ever-increasing challenges.

As we celebrate this expansion, I also want to thank and recognize our outgoing policy director, Sarah Preston, who has done so much to shape the ACLU-NC's reputation and success over the years (page 4). In my short time here, I've relied on Sarah's deep knowledge, experience, and relationships with many of our valuable partners. We wish her all the best in the next stage of her career.

The ACLU of North Carolina has witnessed many changes to our state and organization over the last half century. With your continued, generous support, we will remain ready and well-equipped to fight for liberty and justice wherever and whenever it is under attack. ■

Karen M. Anderson  
Executive Director

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# Four New Staffers Join ACLU-NC

**I**n addition to new Executive Director Karen Anderson, the staff of the ACLU of North Carolina has nearly doubled in size this summer with the hire of four new staff members.

**Staff Attorney Irena Como** joined our legal department, where she works on litigation, community outreach and public education on various civil liberties issues, including LGBT rights, immigrants' rights and criminal justice reform. A graduate of Notre Dame Law School, Irena has worked on behalf of unaccompanied youth in detention, asylum applicants, victims of domestic violence and trafficking, and low-income disabled individuals. Irena previously worked at the Legal Aid Society of New York, where she represented children in abuse and neglect and juvenile delinquency proceedings in Queens Family Court. She is fluent in Albanian, Italian and Spanish.

**Reproductive Freedom Fellow Lynne Walter** coordinates the ACLU-NC's reproductive rights

and justice program, working with community partners to ensure equitable access to full reproductive health and justice. She received her bachelor's degree from Guilford College in Greensboro and worked with migrant farmworkers and Latinx populations across North Carolina for several years before receiving her Master of Social Work in Community Organization from the University of Michigan School of Social Work. Lynne volunteers with a number of community groups, including Planned Parenthood South Atlantic, Triangle SURJ, and Organize 2020. She is fluent in Spanish.

**Faith and Community Engagement Coordinator Jessica Turner** is working to strengthen the ACLU-NC's grassroots support across the state and within faith communities to build relationships and coalitions around numerous justice issues with a special focus on reproductive justice. A native of Fayetteville, Jessica received her bachelor's degree from Elon University

and worked with faith-based advocacy groups in Baltimore and Washington, D.C. before receiving her Master of Divinity from Candler School of Theology in Atlanta. Prior to joining the ACLU of North Carolina, Jessica organized in faith communities to abolish the death penalty, advocated for workers' rights, and led racial justice workshops.

With a background in digital media, **Communications Associate Molly Rivera** works to expand the ACLU-NC's public education campaigns on a range of issues, with a particular focus on reproductive freedom. Molly previously worked as the Digital Media Specialist for the Food Bank of Central & Eastern North Carolina. She has a degree in Journalism from the University of Wisconsin and serves on the Board of Directors for the Triangle Chapter of the Young Nonprofit Professionals Network and volunteers as a Children's Group Facilitator at InterAct of Wake County. She is fluent in Spanish. ■



From left: Staff Attorney Irena Como, Reproductive Freedom Fellow Lynne Walter, Faith and Community Engagement Coordinator Jessica Turner, and Communications Associate Molly Rivera.

# 10 Years Lobbying for the ACLU-NC

*After leading the ACLU of North Carolina's policy work for the last decade, Sarah Preston is moving on to become executive director of Lillian's List of NC, which works to recruit, train, promote and support pro-choice women running for public office.*

*Sarah has been an invaluable member of our team, and the foundation for so many of our victories for civil liberties across the state. We are incredibly proud of her legacy, and wish her the very best in her career.*

*We spoke to Sarah about representing the ACLU-NC for a decade in the trenches of the North Carolina General Assembly, how much has changed during her tenure, and what she hopes to see in the future.*



Sarah Preston

**Q: What was the legislature like when you first started this work, and how have you seen it change over 10 years?**

SP: A lot has changed at the legislature since I started working over there in 2006. For one thing, they stopped smoking in the building. Control over both chambers switched from the Democratic Party to the Republican Party. There are also fewer lawyer legislators and that has affected how legal implications are thought through and how legislation is vetted and debated. In general, I think things have become more partisan and even issues that should not be polarizing become lightning rods.

**Q: What do you think were some of the ACLU's greatest accomplishments at the legislature in your time there, and what were some setbacks?**

SP: We had some huge wins in 2009: Passage of the Healthy Youth Act, which required schools to offer comprehensive sex education, and the School Violence Prevention Act to prevent bullying of all students, but particularly LGBTQ students, are both good examples. We also worked with partners to see passage of the Racial Justice Act, allowing capital defendants to challenge their sentence of death if they could prove that race played a substantial role in their sentencing.

Unfortunately, the Racial Justice Act was later repealed, but the litigation around the filed cases is ongoing and the ACLU's efforts, along with our many partners, have resulted in no executions in North Carolina in 10 years. More recently, I am extremely proud of the way the ACLU-NC fought against the passage of HB2. The fact that we were prepared and able to file a lawsuit on behalf of gay and transgender North Carolinians just five days after HB2 became law is a testament to the staff here and how hard they will fight for fair and equal treatment.

**Q: Do you have any favorite moments from your time at the ACLU?**

SP: I have so many favorite moments! I have regularly been moved by our clients and their stories and being able to lift those stories up for legislators has always given me a sense of mission. One of the great privileges of this work has been the ability to speak truth to power for a decade, to explain that yes, racial profiling does still exist or that abstinence only education doesn't work, to tell legislators about our amazing clients. All of these memories will stick with me. But one that really stands out is receiving a pen from Governor Bev Perdue after she signed the Healthy Youth Act into law. That vindicated

three years of work to pass that law and I hope the information being taught across the state is helping keep kids healthy and safe.

**Q: What do you see as the biggest civil liberties issues on the horizon in North Carolina?**

SP: There is a lot that I think the ACLU can—and will—do in the next 5 to 10 years. One issue I have been working on for nearly a decade that I think we are really seeing movement on is raising the age of juvenile jurisdiction so that our 16 and 17-year-olds will no longer be tried in adult court for minor non-violent crimes. This is a proposal that has bipartisan support and actually passed the House in 2014. I would not be surprised to see it adopted in the very near future. I also think it is possible that we might see an about face from the legislature on footage captured by police body cameras. A lot of legislators were surprised at the public's outrage after the legislation passed that gave law enforcement complete discretion over whether or not to release the video even to the person in the recording, I think they might be open to reviewing and reforming that law. In spite of the setbacks we have endured, I am really hopeful about the moment we are in here. ■■

## Federal Court:

# Early Court Win Propels HB2 Fight Forward

**T**he ACLU's legal challenge to House Bill 2, the notorious state law that bars many transgender people from using restrooms and other public facilities that match their gender, won an early victory on August 26 when a federal court blocked the University of North Carolina from enforcing the law against three of our clients.

The ruling means that three transgender North Carolinians we're representing—UNC-Chapel Hill employee Joaquin Carcaño, UNC-Greensboro student Payton McGarry, and UNC School of the Arts student Hunter Schafer—can return to using on-campus facilities that match their gender while our legal challenge proceeds.

However, the ruling did not apply to the thousands of other transgender people who continue to face harms under HB2. For that reason, the ACLU and our partners are appealing parts of the ruling to the U.S. Court of Appeals for the Fourth Circuit in an effort to protect all transgender people who call North Carolina home or who visit our state.

"We are thrilled that HB2 is starting to crumble and relieved for our clients who have had a huge burden lifted as a result of the court's ruling," said Chris Brook, legal director of the ACLU of North Carolina. "But we know the harmful effects of HB2 are far reaching, and that is why we are seeking broader relief for the thousands of transgender people who call North Carolina home."

In granting relief to our three clients, the district court also found that we are likely to succeed in our argument that HB2 violates Title IX, the federal law that prohibits sex discrimination.

The American Civil Liberties Union, ACLU of North Carolina, Lambda Legal and the law firm of Jenner & Block are challenging the law in federal court on behalf of six LGBT North Carolinians and members of the ACLU of North Carolina.

The lawsuit, *Carcaño v. McCrory*, was filed days after HB2 was passed by the North Carolina General Assembly and signed by Governor Pat McCrory. The case argues that through the law, North Carolina sends a purposeful message that LGBT people are second-class citizens who are undeserving of the privacy, respect, and protections afforded others in the state and that transgender individuals, in particular, are expelled from public life through HB2's mandate that they be forced out of restrooms and changing facilities that accord with who they are. During the trial, the court will also consider challenges to sections of HB2 that prohibit local municipalities from extending nondiscrimination protections to LGBT people. ■



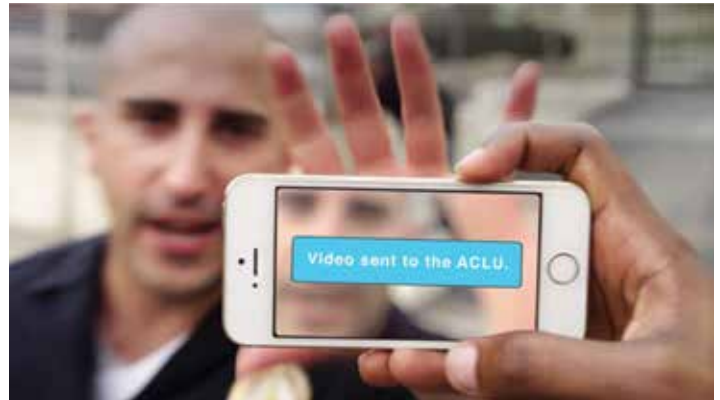
ACLU of North Carolina Legal Director Chris Brook (middle photo) and lead plaintiff Joaquin Carcaño (bottom photo) speak at a press conference following a preliminary hearing on HB2 in Winston-Salem on August 1. "Hopefully this is the start to chipping away at the injustice of H.B. 2 that is harming thousands of other transgender people who call North Carolina home," Joaquin said after the court blocked UNC from enforcing the law against him and two other plaintiffs.

# Why ‘the People’s Body Camera’ Is More Important Than Ever

**T**he movement to increase police accountability and transparency in North Carolina suffered a major setback in July, when Governor Pat McCrory signed into law a bill that allows law enforcement agencies to keep officer worn body camera footage from the public unless ordered to release the footage by a court.


Under HB 972, body camera and dash camera footage is not a public record. Law enforcement agencies have the discretion to show footage to people

who are recorded, but if the agency denies a request to show the footage, the recorded individual has to bring a claim in court to attempt to obtain the footage. Law enforcement agencies aren’t able to release copies of videos to recorded individuals or to the general public without a court order.



was created to empower individuals to hold North Carolina law enforcement agencies accountable for their actions. Available in English and Spanish on iPhone and Android devices, the free app allows users to document encounters with police if they believe someone’s rights are being violated and send that footage to the ACLU-NC for review. The video is transmitted even if the user’s phone is destroyed or confiscated. The app also provides an overview of what rights protect North Carolinians when they are stopped by law enforcement officers.

The nationally publicized video recordings of police officers killing Alton Sterling in Louisiana and Philando Castile in Minnesota are timely and tragic reminders of the power that people carrying smart phones have to document police misconduct.

Now that public access to police body camera footage has been severely restricted in North Carolina, Mobile Justice NC—the people’s body camera—is more important than ever. 

Dozens of law enforcement agencies across North Carolina have or are planning to obtain officer-worn body cameras. The ACLU-NC has advised many local agencies on best practices that would be a “win-win” for both law enforcement and the communities they serve. But the new law runs counter to the stated goal of body cameras: to make law enforcement more transparent and accountable.

“People who are filmed by police body cameras should not have to spend time and money to go to court in order to see that footage,” said Susanna Birdsong, Policy Counsel for the ACLU of North Carolina. “These barriers are significant and we expect them to drastically reduce any potential this technology had to make law enforcement more accountable to community members.”

When the shameful law takes effect on October 1, the public’s right to film police will be more important than ever. One way North Carolinians can exercise that right is through the ACLU-NC’s Mobile Justice NC app, which

## You Have the Right to Film Police

Here are three things to know:

- You can take pictures of anything in plain view in a public space including federal buildings, transportation facilities, and the police, as long as you are not interfering with law enforcement.
- Police officers may not confiscate or demand to view your digital photographs or video without a warrant, and they cannot delete your photographs or video under any circumstances.
- Our free Mobile Justice NC app, available on iOS and Android phones, allows you to record audio and video which is then automatically sent to the ACLU of North Carolina. Learn more at [acluofnc.org/app](http://acluofnc.org/app).



Left: The ACLU-NC and allies delivered a petition on August 30 calling on North Carolina Governor Pat McCrory to stop enacting needless and unconstitutional barriers that interfere with a woman's right to a safe and legal abortion.

The delivery came two months after the U.S. Supreme Court reaffirmed that a woman has a constitutional right to have an abortion without undue burdens, including medically unnecessary regulations on doctors and facilities that provide abortions.

In North Carolina, a woman seeking an abortion must wait three days, the longest waiting period in the country. Abortion has been targeted in every legislative session since the current leadership took over in Raleigh.

# Putting N.C. Politicians on Notice: Abortion is a Right

In June, the U.S. Supreme Court reaffirmed that every woman has a constitutional right to an abortion without having to navigate a sea of unnecessary barriers. But in North Carolina, obstacles are still in place that prevent many women from accessing abortion care, in particular women of low income who live in rural parts of the state.

In striking down two parts of a restrictive and medically unnecessary Texas abortion law, the Supreme Court made clear that anti-abortion lawmakers can no longer hide behind sham rationales to enact medically needless barriers to abortion access.

We know that there are politicians around the country and in North Carolina who won't stop trying to impose unnecessary obstacles to prevent a woman who has decided to have an abortion from actually getting one. For example, in 2015, the General Assembly passed and Governor Pat McCrory signed a law that mandates a 72-hour waiting period for a woman seeking an abortion, the longest waiting period in the country, forcing many to make multiple, costly trips.

We are putting these politicians on notice that their obstructions will not stand. The ACLU of North Carolina is working together with supporters of abortion rights to lift these sham restrictions and tell politicians we will not rest until every woman who has decided to have an abortion can have one, free from obstructions, shame and political agendas. ■



## Liberty Watch

How did your representatives in the General Assembly vote on civil liberties issues during the 2015-16 session? Check out our legislative report card at [acluofnc.org/2016ReportCard](http://acluofnc.org/2016ReportCard).

### Why Same-Day Registration Matters

For thousands of North Carolinians, same-day registration has served in past elections as a failsafe against unforeseen problems, guaranteeing they could still cast a ballot even if they had to update information or their registration was lost through an error. North Carolina's 2013 voter suppression law eliminated the popular practice, but thanks to a successful federal lawsuit brought by the ACLU and others, North Carolina voters will once again be able to use same-day registration in the 2016 election.

During North Carolina's 2014 early voting period, registered Sampson County voter Isabel Najera (pictured) went to cast her ballot at her assigned polling location, but after two hours of searching, elections officials couldn't find her registration. Her vote was not counted—even though she did everything right. The restoration of same-day registration will allow voters like Isabel whose registration is lost through no fault of their own to re-register and cast a ballot during early voting—ensuring that their vote will count.



### Protecting the Right to Vote

*continued from page 1*

The lawsuit argued that North Carolina lawmakers intentionally eliminated voting practices that were disproportionately used by African Americans—a charge with which the appeals court agreed.

In its ruling, the Fourth Circuit found the law “target[ed] African Americans with almost surgical precision” by requiring forms of ID that white North Carolinians were more likely to possess while at the same time excluding many of the alternative photo IDs used by Black voters.

Though proponents of voter ID argued that the measure was necessary to combat voter fraud, not one example of such fraud was cited by North Carolina, leading the court to declare that the restrictions “constitute solutions in search of a problem.”

“Faced with this record,” the court held it could “only conclude that the North Carolina General Assembly enacted the challenged provisions of the law with discriminatory intent.”

The United States Supreme Court denied North Carolina's effort to block the appeals court ruling, ensuring that the restrictions will not be in place for this year's election. ■

### What the Ruling Means for the November 8, 2016 Election

- **No ID necessary:** North Carolina voters will **not** be required to show photo IDs.
- **Same-day registration in effect:** North Carolina voters will be able to register, or update their registration, at polling locations during early voting hours. Same-day registration was eliminated under the 2013 law.
- **Seventeen days of early voting:** North Carolina voters will now have 17 days of early voting, as was the case in previous elections before lawmakers reduced the number to 10 in 2013.
- **Out-of-precinct voting:** North Carolina voters who go to the wrong polling location on Election Day will be able to cast provisional ballots in all races appearing on the ballot they receive in which they are legally entitled to vote.
- **Preregistration:** Sixteen and 17-year-olds who will be eligible to vote upon turning 18 can once again preregister to vote, another practice that had been eliminated by the 2013 law.

**Have questions or want to report a problem?  
Call 1-888-OUR-VOTE or visit [NCvoter.org](http://NCvoter.org)**



# Will North Carolina Finally Stop Charging 16- and 17-Year-Olds as Adults?

**N**orth Carolina is one of only two states in the country that still charges 16- and 17-year-olds as adults in our criminal justice system, without exception. This outdated policy harms our state and our young people in countless ways, and it must change.

Thankfully, the North Carolina Commission on the Administration of Law and Justice, a group formed by N.C. Chief Justice Mark Martin, is recommending that North Carolina join 48 other states that instead send youthful offenders to the juvenile justice system. This will give them access to mental health, educational and other programs that can help turn their lives around and avoid a lifelong criminal record.

At public hearings across the state this summer—in Jamestown, Wilmington, Asheville and Charlotte—the ACLU-NC and our allies urged officials to raise North



The ACLU-NC joined community advocates at a public hearing in Jamestown on August 3 to support raising the age of juvenile jurisdiction.

Carolina's age of juvenile jurisdiction so that youthful offenders are given a chance to grow up and correct course. A substantial body of evidence shows

that doing so would make North Carolina safer, strengthen families, and help our economy. ■

# State Pledges to End Solitary Confinement of 16- and 17-Year-Olds

**I**n June, the North Carolina Department of Public Safety announced plans to end the practice of placing youthful offenders in solitary confinement by September 2016. North Carolina is one of two states in the country that still charges 16 and 17 year olds as adults and places them in adult correctional facilities. Earlier this year, the Obama administration announced that it would end the solitary confinement of juveniles in federal prisons. Overwhelming evidence has shown the horrific trauma and psychological

damage that is caused by locking someone in a cell for 23 hours a day without fresh air, human contact or appropriate treatment.


In 2015, a coalition of human rights organizations, including the ACLU of North Carolina, sent a letter asking the United States Department of Justice to open an investigation into the use of solitary confinement in North Carolina prisons. The groups have been actively lobbying state officials to reform North Carolina's use of solitary confinement, particularly with respect to inmates who suffer from mental illness. ■



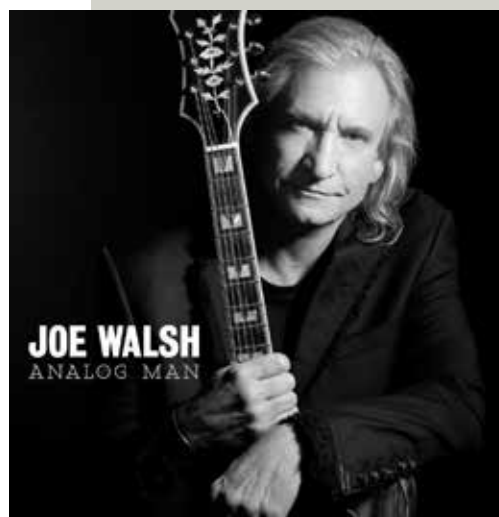
## Mundane Moments Threatened by Discriminatory Laws

**T**his summer the ACLU of North Carolina and Equality NC debuted a joint video project campaign portraying real North Carolinians in everyday situations—“mundane moments”—that could be threatened by state laws that enable discrimination.

The “Mundane Moments” campaign shows lesbian parents, a Muslim couple, and a transgender woman—all real North Carolinians—in various family situations. The videos highlight a North Carolina law (SB2) that allows government officials to deny marriage services to couples if they cite a religious objection, as well as the absence of any North Carolina laws protecting transgender people from various forms of discrimination.

The three videos and more information about these issues are available at [MundaneMoment.org](http://MundaneMoment.org). 

### Rock & Roll Hall of Fame Guitarist Joe Walsh Supports ACLU’s Fight Against HB2



“Please consider contributing to these organizations who are working to repeal HB2 and join me in coming together to protect equal rights for everyone, including our LGBT children today and for years to come.” – American singer-songwriter and former Eagles’ guitarist Joe Walsh, who donated a portion of the proceeds from his shows in Raleigh and Charlotte this

summer to support the ACLU’s lawsuit against the anti-LGBT HB2.



### Western NC Chapter Honors Isaac Coleman

The ACLU-NC's Western North Carolina chapter posthumously honored civil rights hero Isaac Coleman with the annual Evan Mahaney Champion of Civil Liberties Award on June 26 for a lifetime commitment to human rights and equal justice.

Coleman, who passed away on May 10, began his career in activism in 1964, when he joined hundreds of other college students to register black voters in Mississippi during the historic Freedom Summer.

Coleman went on to work with many social justice groups. In western North Carolina he founded Just Economics, an organization that promotes a just and sustainable economy, and he helped found Read to Succeed, which works to increase student literacy.



### Charlotte Chapter Shows Their Pride

The ACLU-NC's Charlotte chapter hosted a table at the Charlotte Pride festival in August. Community members stopped by to learn about our work and show their support for LGBTQ equality. Keep an eye out for us at Pride events across the state this fall! 🏳️‍🌈





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**Visit [acluofnc.org](http://acluofnc.org) for more details.**



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