

Special Session delayed???

The Kentucky

# CITIZEN

STRENGTHENING FAMILIES AND THE VALUES THAT MAKE FAMILIES STRONG

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(Deliberately Delayed) September/October 2017

## Gambling expansion pushed on many fronts

*Those who say gambling is not being pushed from powerful places of influence are just not informed. Stand strong and call!*

It is hard to understand the fervor that gambling proponents manifest as they relentlessly pursue their goal of expanded gambling. But, when you consider that more gambling means more money for them, it begins to make sense.

As always, no one is arguing that more gambling is good for Kentucky. They can't because it is not good. So they just talk about all the money that they can "generate" from Kentucky citizens.

Here is a brief listing of recent efforts by those pushing more gambling for the Commonwealth: (Without doubt, more efforts are being proffered behind the scenes.)

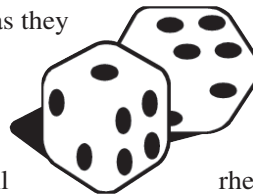
- On Aug. 18, the Interim Joint Committee on Licensing, Occupations and Administrative Regulations met. Part of the committee's agenda was a bill that legalized sports betting. Not one spoke up against the bill at the hearing, but one legislator commented favorably saying, "This would bring in more revenue, wouldn't it?"

Last year this same bill was killed at the last minute when it was made clear that the lobbyist pushing the bill had deceived legislators by saying that sports betting was already legal across America.

- On Sept. 15, Churchill Downs and Keeneland announced plans to build two new race tracks, one in southwest Kentucky and one in southeast Kentucky. Both would have facilities for hundreds of the so-called "Instant Racing" machines. These slot machine-like devices have never been voted upon by the legislature, have never been judged legal by a court, and are seven years into a court case that is scheduled to come to a resolution in January. Yet, the machines continue to operate, separating many Kentuckians from their assets. (See related story on page 2)

- On Sept. 18, Rep. Rick Rand (D-Bedford) and Rep. Dennis Keene (D-Wilder) announced that they have pre-filed a bill for the 2018 Session that will bring casino gambling into the state through a constitutional amendment. Their amendment would authorize up to ten casinos around the state and fund the state pension deficit.

- They believe that \$500 million could be "raised" each



biennium. [More realistically, that's \$500 million lost by Kentucky citizens each biennium.]

- On Sept. 20, Rep. Jerry Miller (R-Louisville), a Republican, stated his plans to file a casino bill for the 2018 Session, thus making all the gambling rhetoric bipartisan. Sen. Morgan McGarvey (D-Louisville) plans to cosponsor.

- On Sept. 21, Senator and former-Governor Julian Carroll (D-Frankfort) announced and filed a sports wagering bill that he is expecting to be debated in the 2018 Session. This bill, like the bill discussed in the Interim Committee (above), opens a whole new avenue of gambling in Kentucky.



Rep. Miller & Sen. Carroll



Reps. Rand and Keene

## **YOU can be the difference!**

*With the Special Session, NOW is the perfect time to make these two calls.*

### **#1 Leave a message for your legislators: 1-800-372-7181**

Leave a kind but firm encouragement with the operator for your legislators by saying, "**Please give this message to all the legislators in my county.**" (Some counties have more than one representative and one senator). Simply say, "**Please VOTE AGAINST ANY expansion of gambling.**" The Legislative Message Line is 1-800-372-7181. To multiply your impact, ask the operator to, "**Copy my message to the Leaders of the House and Senate.**" The call is free and it should take about one minute. Call now! The Message Line is open now from 8 AM to 4:30 PM Eastern. (If the Special Session begins, you can call 7 AM to 6:00 PM Eastern.)

### **#2 AND, leave a message for Gov. Bevin: 1-502-564-2611**

Leave this message, "**Please act to stop the expansion of gambling thru the horse-themed 'slot machines' at race tracks.**" (These machines have NEVER been voted upon by the legislature and the court has NOT determined them legal, yet they have been operating for six years, sucking up millions of dollars from Kentucky families.) The Governor's Message Line is 1-502-564-2611. It is open from 8:00 AM to 4:30 PM Eastern. (For more, see page 2)

**"Let your voice be heard in Frankfort" is a prophetic task – speaking truth to power. If you hit any snags, call The Family Foundation at 859-255-5400.**

# Set for Jan. 8, the Instant Racing trial is crucial

*Is “Instant Racing” truly pari-mutuel wagering on a horse race, or is it just verbal manipulation by the gambling industry?*

Even though there have been numerous “irregularities” in the seven-year court case that The Family Foundation has engaged (with many of those irregularities grievous *and always against The Foundation*), the case will ultimately come down to whether these devices do, in fact, offer pari-mutuel wagering on a horse race.

The problem that the eight tracks and the Kentucky Horse Racing Commission have in their “common interest assertion” is that the individual sitting at the machine is the only person wagering on the horse races that the machine has selected for him – there is no one else wagering on those races at that particular time.

How then is he wagering “pari-mutuelly” – “among others” – with someone or some ones? *There is no “OTHER”!*

Similarly, everyone knows that pari-mutuel wagering means that the payouts are determined by the odds created by the wagerers who are wagering “among themselves.” If more people bet on “Sea Biscuit,” then “Sea Biscuit’s” payout odds go down — a winner would win less. And vice versa.

On one of these gambling devices, a wagerer’s prize is set by numerical algorithms – there is no one else affecting the payout odds, he is just playing by himself, alone on a machine that plays a three-second clip of the ending of some previously run horse race.

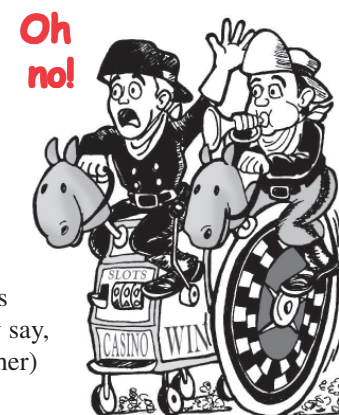
The proponents argue that the money wagered by many via their own individual

machines is “pooled” and therefore they are wagering against one another. But the fact is *they are not wagering against one another*, they are simply wagering by themselves and being paid out of a common pool or account in which their money has been placed. That’s *NOT* pari-mutuel wagering. That’s just “*uni*-lateral wagering with a common payout pool.”

Again, proponents argue that “*over time*,” money in the common pool or account will rise or fall based on winners and losers, meaning that the previous wagerer is actually affecting the pool (win or lose). Therefore, they say, the two wagerers are “connected” (affected by one another) and thus are in a “pari-mutuel wager.”

That’s silly! Even if you stretched the definition of “pari-mutuel” to mean “has *some effect* on another wagerer,” it is still clear that the second wagerer – ten minutes or ten years later – can have no effect (zip, nada, nothing) on the previous wagerer who has already won or lost, and walked away.

This whole effort is about bringing slot machines or “slot-like” machines into Kentucky and having them controlled only by the race tracks. (*See related article below.*)



## What the horse tracks are trying to do in court

*It boils down to having casinos run by the tracks. It's sad, because then Kentucky's “signature industry” will be a rip-off enterprise.*

In 1994, a leading member of the horse racing community knocked on the door of The Family Foundation and asked for its help keeping casinos from coming into Kentucky. The horse racing industry was terrified that casinos would come into the state and undercut their gambling interests.

Kent Ostrander, executive director at that time, was nonplused, saying “We don’t run around telling people what they can do and what they cannot do.”

But the horseman said, “Look at what casinos do to the family.” A little research later and The Family Foundation was on board with both feet. The fact of the matter is that *ALL* gambling money comes from the family. Corporations, businesses, institutions, nonprofits, agencies, etc. can’t gamble. Only moms, dads and a few single people gamble.

For six years the horse industry and The Family Foundation worked successfully arm-in-arm to keep casinos out. Then, in 2000, the horse industry had an apparent revelation: “If you can’t beat the, *OWN* them!” They simply switched sides and began working *for* casinos, but with this caveat: race tracks would own the casinos and they would have the complete monopoly.

In some sense they simply followed Churchill Downs’ lead because Churchill is now not a horse racing entity, it is a casino company (owning six casinos in five different states). Yes, it owns a race track in Louisville; but it truly is a casino company.

Since then – 14 years – The Family Foundation has stood as the lone policy organization against the expansion of gambling in the Commonwealth, even during the eight years of the Beshear Administration. Beshear, of course, was “The Gambling Governor.” In fact, he set the tone that threatens Kentucky even today.

In 2007 Beshear ran on a “Let the people decide” platform which ostensibly would allow for a constitutional amendment on which the people would vote. What he knew, and what the news media did not report, was that tens of millions of dollars would be



spent by the gambling industry if an amendment/referendum was, in fact, authorized by the General Assembly. Those funds were available *because they knew* they would get it all back once casinos were authorized.

The “no casino” citizens would receive absolutely no money if they won. And, in addition, they had no significant source of money with which to campaign.

But history reports that those against casinos prevailed in the legislature – no gambling expansion amendment was passed during Beshear’s first three years in office!

So, in 2010 Beshear used his Executive Branch to attempt to legalize expanded gambling – he had his Kentucky Horse Racing Commission form a “common interest” with the eight race tracks it is supposed to regulate. That “interest” then asked the Franklin Circuit Court if these newly-devised “Instant Racing” slot-like machines were, in fact, horse races.

That’s when The Family Foundation intervened in the case. “Frankly,” said Ostrander, “we smelled a rat.”

Since 2010, The Family Foundation has been in a court case where the machines have never been declared legal; but they continue to operate, making millions of dollars.

Here’s the bottom line: If these devices are judged to be “horse races,” then the race tracks will have accomplished 95 percent of the goal they set in 2000 – they will own *ALL* the tracks; and they will have slot-like machines at all their facilities, with no competition in the state. That means they will have their “casino” monopoly – everything but table games. (And those will follow in a few more years after they have made millions and can “influence” the legislature to allow them). (*See article on page 7.*)

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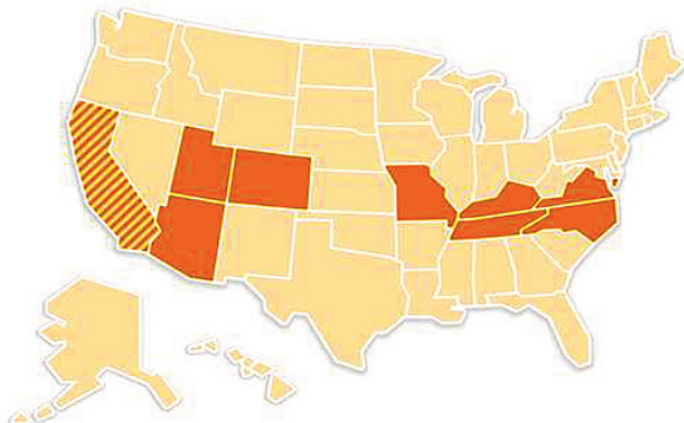
# Kentucky: A *leading* state in student freedom

*If we can succeed in one area because of the faith that's resident in Kentucky, why don't we move forward in other areas?*

## Free Speech Protections at Universities

### PROHIBIT SPEECH ZONES

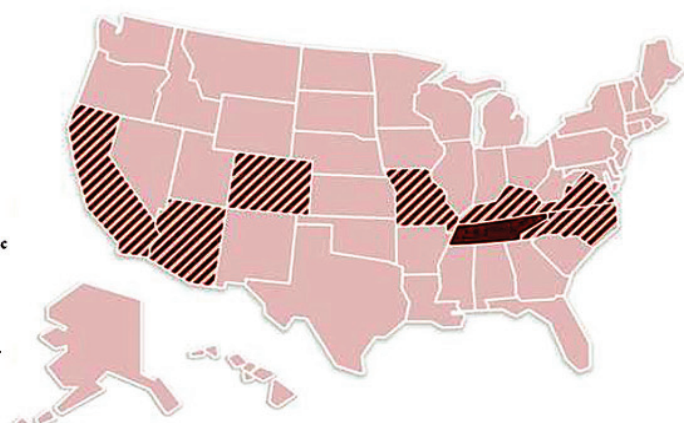
These states have laws prohibiting public colleges from restricting when and where students may speak or requiring them to get permission to speak publicly.



● PROHIBIT SPEECH ZONES    ▨ MAYBE PROHIBIT SPEECH ZONES\*    ● NO PROTECTIONS

### PROHIBIT SPEECH CODES

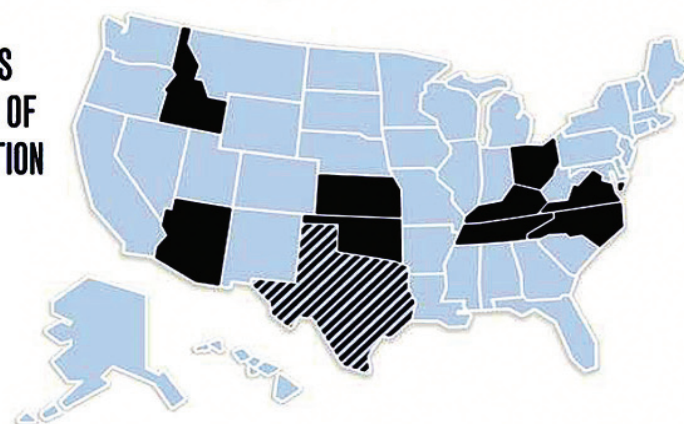
The states shown here have laws prohibiting public colleges from restricting what students may say through broad policies limiting protected speech.



● PROHIBIT SPEECH CODES    ▨ MAYBE PROHIBIT SPEECH CODES\*    ● NO PROTECTIONS

### PROTECTS FREEDOM OF ASSOCIATION

These states have laws ensuring that student organizations may speak for and govern themselves, choosing their own leaders.



● PROTECTS FREEDOM OF ASSOCIATION    ▨ MAYBE PROTECTS FOA\*    ● NO PROTECTIONS

On Sept. 14, Alliance Defending Freedom, a national legal group that protects religious liberty, released a report highlighting the states that have protected free speech on their state-funded university campuses. Their research affirmed the fact the Kentucky is one of the nation's leading states in this area of law. A key component of Kentucky's good standing in the report was Senate Bill 17 – The Student Free Speech and Religious Liberty Act – that addressed not only college campuses, but also public elementary, middle, and high schools in the state.

Drafted by The Family Foundation and sponsored by veteran Sen. Albert Robinson (R-London), SB17 passed the Senate this year on Feb. 10 with a 31-3 vote and the House on March 6 with a 81-8 vote.

***Kentucky has taken the lead in this area, and done so across its public education system.***

The liberals in California so recognized its significance for student free speech and religious liberty rights that they ordered restriction on all state-sponsored travel to Kentucky, apparently trying to intimidate the Commonwealth into renouncing its beliefs in First Amendment Rights for students.

The ACLU and other groups that opposed SB17 seem to forget the fact that more than four decades ago, the U.S. Supreme Court made it clear that public college students do not sacrifice their constitutional rights when they arrive on campus. The Court found in its 1972 *Healy v. James* ruling that there was “no room for the view that . . . First Amendment protections should apply with less force on college campuses than in the community at large.”

Yet today, the reality for most students across this nation does not reflect the promise of the “marketplace of ideas.” Universities too often regulate what students may say, when and where they can say it, and even who will speak to and for them.

Kentucky has taken the lead in this area, and done so across its public education system. Kentucky families should be thankful. (See related story on page 8)

## The Nashville Statement

*Finally, a statement on human sexuality that can be trusted.*

Recognizing that they are “living in a period of historic transition” in which Western culture has “embarked upon a massive revision of what it means to be a human being,” a coalition of over 150 evangelical leaders released a doctrinal statement reaffirming a biblical view of human sexuality.

Released on Aug. 29, *The Nashville Statement* is the work of the Louisville-based, The Council on Biblical Manhood and Womanhood. Their mission is “to set forth the teachings of the Bible about the complementary differences between men and women, created equally in the image of God.”

The *Statement's* preamble sets the stage for the it's 14 Articles. In part, it states that the “secular spirit of our age presents a great challenge to the Christian church... Therefore, in the hope of serving Christ's church and witnessing publicly to the good purposes of God for human sexuality revealed in Christian Scripture, we offer the following affirmations and denials.”

The Family Foundation and more than 17,000 others have signed it.

To read *The Nashville Statement* in its entirety, go to:

**[cbmw.org/nashville-statement/](http://cbmw.org/nashville-statement/)**



# News Briefs:

## The Family Foundation files policy *amicus* in “Masterpiece Cakeshop” case.

The Family Foundation along with 30 other family policy councils filed a public policy *amicus* brief in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, one of the most important cases before the Supreme Court. Oral arguments will likely be scheduled during the Court’s December sitting.

The question before the Court is whether artists can be compelled to create expression that violates their sincerely held religious beliefs about marriage. It is perhaps the Court’s most enduring and potent constitutional call which is at stake.

In the midst of World War II, the worst war the world has ever seen, the Court decided a landmark case which proclaimed that “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.” *W. Va. State Bd. Of Educ. V. Barnette* (1943).

The brief maintains that if the Court can uphold rights of conscience when the nation’s survival was at stake, it can surely reaffirm them now. Let the patron find a willing creator, and let the unwilling artist keep his conscience clean.



## Hurricanes reveal faith-based help in time of need.

When Hurricane Harvey made landfall on August 25, 2017, it was the strongest storm to hit the U.S. in 12 years. It’s \$180 billion price tag makes it the costliest natural disaster in our nation’s history.

It is the National Voluntary Organizations Active in Disaster, an alliance of volunteer organizations, that helps the Federal Emergency Management Agency (FEMA) channel disaster assistance into devastated areas such as Houston. About 75 percent of those organizations are faith-based.

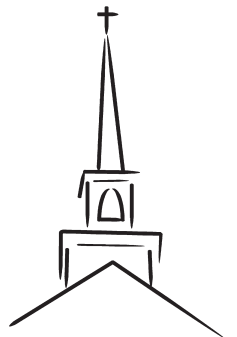
*USA Today* noticed the Church being salt and light in the aftermath of the disaster. A Sept. 3 article proclaimed that faith groups provide the bulk of disaster recovery. According to the report, “In a disaster, churches don’t just... raise money or collect clothes to send to victims; faith-based organizations are integral partners in state and federal disaster relief efforts. They have specific roles and a sophisticated communication and coordination network to make sure their efforts don’t overlap or get in each others’ way.”

## FEMA steps on religious liberty . . . and faithful servants of God.

Given that it is faith-based organizations that coordinate with the Federal Emergency Management Agency (FEMA) to provide the bulk of disaster assistance (*see “Hurricanes” above*), it is ironic that houses of worship are categorically denied aid solely because of their faith.

According to Reuters, this policy was also enforced during Hurricane Katrina in 2005 and Hurricane Sandy in 2012, but three churches heavily damaged by Hurricane Harvey are now suing FEMA over the policy.

The key difference between the policy’s earlier use and now is the recent U.S. Supreme Court decision in *Trinity Lutheran Church of Columbia Inc v. Comer*. The policy appears to contradict the Court’s holding that “The State has pursued its preferred policy to the point of expressly denying a qualified religious entity a public benefit solely because of its religious character. Under our precedents, that... violates the Free Exercise Clause.” The Texas churches, who filed the lawsuit, are in need of emergency repair after suffering structural damage and flooding.



## U.S. House passes 20-week abortion ban.

On Oct. 3, the U.S. House passed a bill that would criminalize performing or attempting an abortion after 20 weeks of pregnancy. Such an act would be punishable by a fine, up to five years in prison, or both. The bill was sponsored by Rep. Trent Franks (*R-Arizona*) and passed 237-189.

Even though the U.S. is one of only seven nations that allows elective abortions after 20 weeks and the bill has President Trump’s backing, it would take a miracle for the 20-week abortion ban to pass the U.S. Senate. Passage in the Senate will require 60 votes and Republicans currently hold a 52-seat majority.

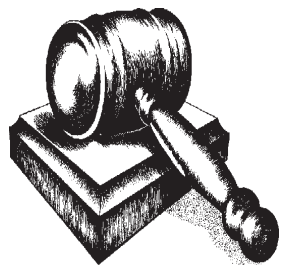
Thankfully, Kentucky is among more than a dozen states which have enacted similar laws protecting unborn babies after they are capable of feeling pain. Kentucky’s law overwhelmingly passed the General Assembly in January. The vote was 30-6 in the KY Senate and 79-15 in the KY House.

## U.S. Supreme Court begins its latest term.

Each term of the Supreme Court begins in October, meaning that eyes are once again turning to the Court as it begins its 2017 term. Topics to be addressed by the Court this term include political gerrymandering, workers’ rights, religious freedom, and privacy.

This will be Justice Gorsuch’s first full term after filling Justice Scalia’s empty seat in April, and it is bound to be an exciting one. Speaking at Georgetown’s law school, Justice Ginsburg said that the only safe prediction about this term is that it “will be momentous.”

The Court has already agreed to hear over 40 cases, with an unusually high number of “blockbusters;” and there are still major cases on the horizon.





## Privacy: The Seventh Circuit gets it wrong.

The 7th Circuit Court of Appeals, in a May 30, 2017 ruling, declared that a Wisconsin high school could not legally keep student restrooms separated based upon biological sex because it constituted sex-stereotyping. The court claimed that “a transgender individual does not conform to the sex-based stereotypes of the sex that he or she was assigned at birth.”

The Family Foundation joined the Family Research Council, the Institute for Faith and Family, and 18 other family policy organizations in filing a brief with the U.S. Supreme Court supporting the school district’s request for it to consider the case.

The brief argues that the essence of a sex-stereotyping claim is “behaviors, mannerisms, and/or appearances.” The school’s policy is not based upon this “outward appearance and behavior” or even the student’s “internal sense of gender.” Rather, the school’s policy is solely about preserving “privacy rights in certain contexts.”



Governor Matt Bevin

## Day of Prayer Over Students & Bring Your Bible To School Day

Gov. Bevin recently used his Facebook account to applaud young people across the Commonwealth for exercising their religious liberty at school. Referring to those who gathered for *See You At The Pole*, Bevin’s Sept. 27 post said it was “encouraging to see so many students across the nation seeking the face of God.” It went on to explain that our “young people need prayer like never before as they face pressure on so many fronts” and asked everyone to join in prayer for them and our schools. This was the second consecutive year that Bevin declared a *Day of Prayer Over Students* to coincide with *See You At The Pole*.

An Oct. 3 post referenced the hundreds of thousands of students who would participate in *Bring Your Bible to School Day* on Oct. 5. It also affirmed that young people “have the right to do this – don’t let anyone tell you otherwise.”

## AG Sessions, President Trump strengthen religious liberty protections.

On Oct. 6, U.S. Attorney General Jeff Sessions issued guidance interpreting religious liberty protections in federal law, building upon the executive order President Trump signed in May.

The guidance expressly reaffirms what James Madison recognized over 232 years ago in his *Memorial and Remonstrance Against Religious Assessments*. The free exercise of religion “is in its nature an unalienable right” because the duty we owe our Creator “is precedent, both in order of time and in degree of obligation, to the claims of Civil Society.”

Sessions goes on to explain that religious liberty encompasses “religious observance and practice,” not “merely a right to personal religious beliefs or even to worship in a sacred place.” Therefore, “no one should be forced to choose between living out his or her faith and complying with the law” except in the narrowest of circumstances. He goes on to provide 20 principles to guide administrative agencies and executive departments in carrying out that task.

On the same day, the Administration also amended Obamacare’s contraceptive mandate to widen the exemption for organizations with religious and moral objections to providing abortifacients and contraceptives to employees.



## Michigan farmers persecuted for beliefs about marriage.

The Fall harvest season is when the Tennes family should be focused on family fun at Country Mill Farms, but instead these Catholic farmers find themselves at the center of a legal controversy that threatens their farm and livelihood.

Trouble began when a post on the family farm’s Facebook page asked about their beliefs related to marriage. When the family answered honestly and in accordance with their religious beliefs, a city 22 miles away decided to punish them.

The City of East Lansing banned the farm from its Farmer’s Market by creating a new policy and then claiming the Tennes family violated it by expressing their religious beliefs. Rather than back down, Steve and Bridgett Tennes, both military veterans, decided to fight for the freedom and rights Americans once enjoyed.

Just two days after hearing their request, a federal judge ordered East Lansing to allow Country Mill Farms to return to the Farmer’s Market while the lawsuit proceeds.

## The Family Foundation joins policy *amicus* in case before U.S. Supreme Court.

The U.S. Supreme Court is considering the constitutionality of a federal law prohibiting states except Nevada from sanctioning commercialized gambling on sporting events. It has brought the policy debate about state-sanctioned gambling to the forefront.

The Family Foundation has joined with a coalition, led by *Stop Predatory Gambling*, in filing an *amicus* brief highlighting how state-sanctioned gambling has been a policy failure. It is essential that the Court understands the stakes of this critical case.

Research, analysis, and data reveal that state-sanctioned gambling uses unfair and deceptive marketing practices in order to 1) target and prey on the financially desperate and addicted; 2) reduces opportunity for millions of American families to improve their economic standing; and 3) forces even those citizens who rarely or never gamble to foot the bill for the enormous social costs and state budget problems it leaves behind.

This case threatens to widely expand the practice of predatory gambling. Thus this brief serves the important purpose of educating the Justices about its ravaging effects.



# LGBT efforts distort what it means to be human

*We are talking about a new level of “intellectual” depravity that could reverse all the human progress over the ages.*

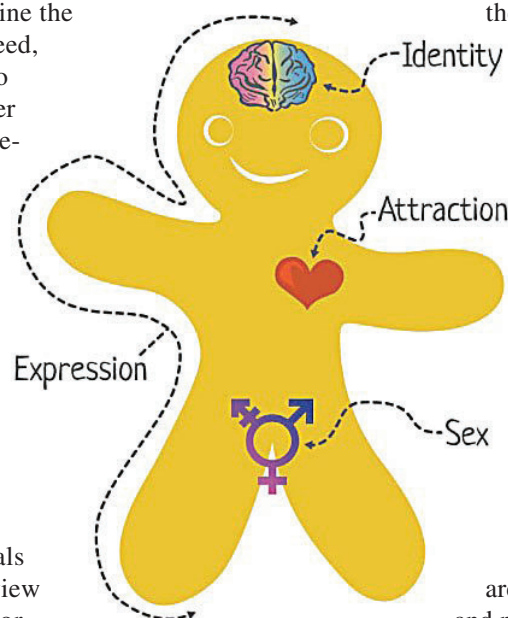
Increasingly, those pushing the LGBT agenda are trying to redefine the “ancient boundaries” upon which our American culture and, indeed, Western Civilization, have been built. When no one speaks up to challenge their new definitions, they simply push forward another step. Some steps are bigger than others – like the “right” to same-sex marriage “discovered” by the U.S. Supreme Court in 2015. Other steps are smaller, but *ALL* go in the same direction and that direction always undermines the foundation upon which our culture was built.

Here is a seemingly harmless example, “What two consenting adults do in the privacy of their own bedroom is okay.”

This statement, at first blush, passes our sensibility test. But what if the two consenting adults are being unfaithful to their marriage vows? Is adultery okay? Is adultery okay with God (and the spouses) as long as the two adults consent?

What if one of the adults is a close blood relative? Is incest okay? Is it okay with God as long as both parties consent?

Subtle shifts in the way we think is one of the perpetual goals of the sexual revolution strategists. Today these shifts in worldview and morality are no longer being marketed exclusively to adults or even to teens. Consider the “Genderbread Person,” which is being used as an “academic” instrument of education in preschools and elementary schools by



the LGBT lobby. This childhood character has been sabotaged to indoctrinate children to believe that everything about their gender, sexuality, and personality is constantly open to their personal redefinition.

The very essence of the word “integrity” is derived from the reality that all parts of a person: his beliefs, words, actions, and body should be integrated into a seamless whole. According to those promoting the LGBT agenda, everything is in flux and subject to the constantly changing perceptions and desires of each individual. Suddenly, the harmless is gone; and this dogma is revealed for what it truly is - the schismatic expression of a culture which is fighting to tear itself from under the authority of the Creator.

LGBT proponents relentlessly chop humanity into increasingly smaller pieces with no correspondence to each other or reality. The phrase on the street of LGBT activists is, “Gender is between your ears; sex is between your legs.”

Now a person can claim to be male at the same time they are a woman, or be feminine while retaining all the sexual desires and practices of a male, and so on.

Welcome to a whole new world where “integrity” has been declared archaic and “self-expression” is the order of the day.

## Optimism presides despite ultrasound court loss

*Legislation similar to Kentucky’s ultrasound bill has been upheld in other federal court circuits. It’s the Sixth Circuit’s case now.*

On Sept. 27, U.S. District Judge David Hale ruled Kentucky’s new ultrasound law unconstitutional and barred its enforcement.

Gov. Bevin quickly promised an appeal to the Sixth Circuit Court and moved for a stay which would postpone enforcement of Hale’s ruling during the appeal. This would allow the ultrasound law (House Bill 2) to remain in effect until the Sixth Circuit addresses it.

The law, which overwhelmingly passed the General Assembly in January, would require an abortionist to perform an ultrasound prior to an abortion. During the ultrasound, the images must be displayed so the pregnant woman may view them while a medical description and explanation is provided. The abortionist must also play the heartbeat so the pregnant woman may hear. A signed certification that the pregnant woman has been presented with the required information must then be retained.

Bevin’s spokeswoman expressed his confidence that “the constitutionality of HB 2 will be upheld, as similar

laws have been in both the Fifth and Eighth Circuits.”

The Governor is relying upon the legal advice of Steve Pitt, his General Counsel. When it comes to informed consent, Pitt points to the precedent already established by the U.S. Supreme Court in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) and *Gonzales v. Carhart* (2007).

In *Casey*, the U.S. Supreme Court upheld “the giving of truthful, non-misleading information” which is “relevant . . . to the decision.”

*Gonzales*, reaffirmed *Casey*, upholding a state’s “significant role . . . in regulating the medical profession” and also added that “[t]he government may use its voice and regulatory authority to show its profound respect for the life within the woman.”

Kentucky’s ultrasound law is similar to a Texas law upheld as constitutional by the Fifth Circuit on January 17, 2012. In that case, *Texas Medical Providers Performing Abortion Services v. David Lakey*, the court declared:

*“the required disclosures of a sonogram, the fetal heartbeat, and their medical descriptions are the epitome of truthful, non-misleading information. They are not different in*

*kind, although more graphic and scientifically up-to-date, than the disclosures discussed in Casey—probable gestational age of the fetus and printed material showing a baby’s general prenatal development stages.”*

That court went on to hold that the information is relevant “because [*Casey* and *Gonzales*] allow the state to

regulate medical practice by deciding that information about fetal development is “relevant” to a woman’s decision-making.” The legality of HB 2 is further reinforced by a 2008 Eighth Circuit case, *Planned Parenthood Minn. v. Rounds*, which also interpreted the Supreme Court’s cases to confirm the

state’s right “to require a physician to provide truthful, non-misleading information relevant to a patient’s decision to have an abortion, even if that information might also encourage the patient to choose childbirth over abortion.”

“After interviewing Mr. Pitt, discussing the case with him, and reviewing the legal precedent from the Fifth and Eighth Circuits, I share the Bevin administration’s optimism that Kentucky’s ultrasound law will be upheld as constitutional,” said Michael Johnson, policy analyst for The Family Foundation.



**Attorney Steve Pitt**

**“After interviewing Mr. Pitt, discussing the case with him, and reviewing the legal precedent . . . , I share the Bevin administration’s optimism . . .”**

**– Michael Johnson, policy analyst  
The Family Foundation**



*Opinion: How can wagering alone on your own event and on your own machine be pari-mutuel wagering? Jan. 8 is the trial date.*

# “Historical Racing” machines are going to court

In mid-September, Keeneland and Churchill Downs announced plans to open two new horse racing tracks. Horse racing tracks. Those are tracks that race horses.

At least theoretically.

In all the announcements about the venture, the focus was “saving race horses.” *Are they saving the horses that would be racing at the two new tracks?*

Those reading these announcements would never have known that it wasn’t



**Martin Cothran is the senior policy analyst for The Family Foundation**

Instant Racing “gaming devices,” some say slot machines, at the state’s horse tracks. The Family Foundation contested the action, pointing out that the machines would violate gambling prohibitions in the Kentucky Revised Statutes that permit only pari-mutuel wagering on horse racing at the

**“Historic horse racing” is the name that has been affixed to machines which look and act like slot machines. But they are neither historical nor do they constitute historical racing.**

about saving the horses at all, but about the money these companies could make, not from horse racing, but from “historic horse racing” machines.

“Historic horse racing” is the name that has been affixed to machines which look and act like slot machines. But they are neither historical nor do they constitute historical racing.

Just over seven years ago, the Racing Commission and the eight Kentucky horse racing tracks asked a Franklin County Court for approval for their plan to install

tracks.

The case fast descended into a legal farce when, confronted with the straightforward restrictions on other forms of gambling, lawyers for the Racing Commission and its race track allies began attempting feats of logical contortion in order to portray Instant Racing machines as something other than slot machines, which they clearly are.

**The Family Foundation contested the action, pointing out that the machines would violate gambling prohibitions . . .**

The Racing Commission argued that Instant Racing machines playing videos of old races involving horses long deceased counted as “live” horse racing. Then, apparently thinking they had not adequately plumbed the depths of absurdity, they proposed other slot machine-like games; which, rather than utilizing actual videos of old horse races in which the horses were at least alive when they happened, instead showed *animated* cartoon-like depictions of old horse races. These too, they claim, constitute actual horse racing.

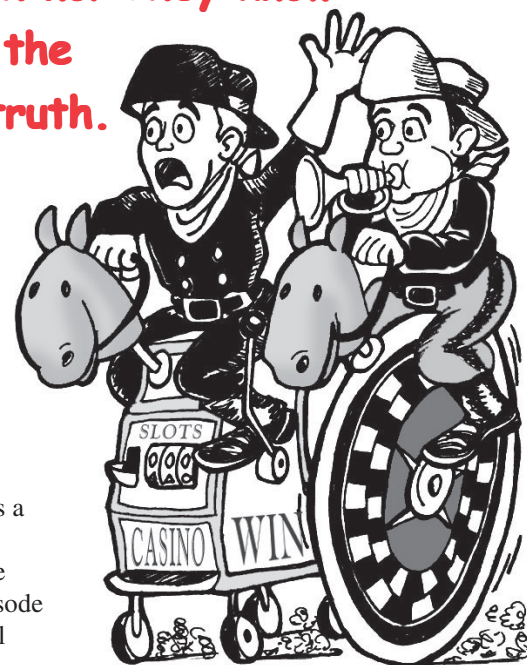
The fact that the trial judge hasn’t laughed these arguments out of court is a scandal in itself.

But the newest episode in this legal version of *unanimated* Looney Tunes

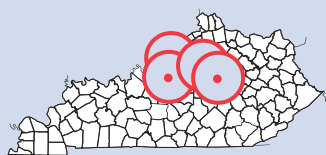
continued when The Family Foundation uncovered through pre-trial discovery that the Horse Racing Commission’s interpretation of the definition of pari-mutuel gambling includes nearly all forms of casino-style gambling.

The Kentucky Horse Racing Commission has indicated it is not likely to

**Oh no! They know the truth.**



approve the so-called two new “tracks” — at least not in the *near future*. However, it is currently trying to redefine what horse racing is; and indications are that redefinition will include virtually any kind of gambling.



## *The Kentucky Marriage Movement*

**Lawrenceburg, Oct. 25 - Dec. 6**

**Love and Lordship Wed. Nite Series - Greg Williams**  
Ninevah Christian Church  
1195 Ninevah Road, Lawrenceburg, KY 40342

**Willisburg, Oct. 25 - Nov. 15**

**Love and Lordship Wed. AM Series - Greg Williams**  
Isaiah House  
2084 Main Street, Willisburg, KY 40078

**Louisville, October 27-28**

**KMM exhibit at Building Kingdom Marriage Conference**  
New Life Church  
3402 Goose Creek Road, Louisville, KY 40241

**Louisville, November 11**

**Marriages that Work - Greg Williams**  
Immanuel Baptist Church - All Stars Men’s Conference  
3100 Tates Creek Road, Lexington, KY 40502

**For more information, call (859)255-5400 or go to [www.kentuckymarriage.org](http://www.kentuckymarriage.org)**

# Please “get” this . . .

**Kentucky CAN BECOME a leader for the nation.**

It was a revelation when Dorothy in the *Wizard of Oz* was told that she had on her feet her ticket home which she had agonized over during the entire time down the “Yellow Brick Road.” The shoes she wore just needed to be clicked together and home she was. Similarly, we in Kentucky have had all this while our “ticket home” to the family values that we so much desire in our state and for our nation – the ticket for us is “one another” – it’s the Body of Christ.

Earlier this year, the General Assembly passed Senate Bill 17: The Student Free Speech and Religious Freedom Act, which gives students the same free speech and religious liberty rights that all other Americans have. Those rights had been encroached upon by school officials across the nation in elementary schools, middle schools, high schools and colleges because of the political correctness that has been growing like a cancer in the nation over the last 20 years.

Kentucky legislators passed SB17 because of the many who called in and encouraged them to do the right thing. So infuriated was the Left Coast that California placed a ban on payments for government workers who wanted to come to Kentucky to do business for California. (See related story on page 3.)

Because Kentucky passed the bill, students now can speak freely about their faith, they can speak their opinions in any area of the campus, they can do research and writings about their *spiritual* hero when the task assigned “is writing about their hero,” and they can choose leaders for their campus organization that have the values of their organization. They *do not* have to be politically correct by having a leader who doesn’t share their beliefs.

The fact is, Kentucky is leading the nation in this area of truth.

And, probably more importantly, Kentucky’s Christians decided to call and speak up, encouraging their legislators to “do the right thing.”

Similarly, continue to watch as Kentucky rises as one of the leading states with respect to the sanctity of life issue. In 2015, the Christians in Kentucky elected Gov. Bevin . . . and last year, Christians elected the large new class of freshmen Representatives that has been moving all kinds of pro-family legislation, *including* the sanctity of life bills.

The fact remains that Christians in Kentucky have just begun to do their job – their job of being salt and light. Their job of influencing the culture for the good.

Other than in basketball, Kentucky doesn’t lead the nation in many things. Too often we’re 35<sup>th</sup> in this, or 43<sup>rd</sup> in that or just 47<sup>th</sup> in whatever.

But God is with us. And when we choose to be with God, we must speak and act and work according to His ways. When we do, we will be serving this state and this nation with something that most other states are not offering – *God’s perspective*.

Some will hate us. Some will decry our efforts. But we will be doing what the Lord created us to do in the place where He’s has planted us – *Kentucky*.

And that is good!



**Kent Ostrander is the executive director of The Family Foundation**

## The Kentucky *CITIZEN*

Executive Editor  
*Kent Ostrander*

Editor  
*Mary Kunze*

Contributing Editors  
*Martin Cothran*

*Joyce Ostrander*  
*Michael Johnson*

*Greg Williams*  
*David Moreland*

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**The Family Foundation**  
**P.O. Box 911111**  
**Lexington, KY 40591-1111**  
**859-255-5400**

**e-mail: [kent@kentuckyfamily.org](mailto:kent@kentuckyfamily.org)**  
**Web site: [www.kentuckyfamily.org](http://www.kentuckyfamily.org)**

The Family Foundation  
P. O. Box 911111  
Lexington, KY 40591-1111

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## Then consider two things . . .

### #1 Make the calls listed on page one:

***This is OUR time to speak. With the trouble in Frankfort, legislators are listening! And, the other side IS moving forward. NOW is when you can best impress your legislators and our Governor about our wishes to keep more gambling out of Kentucky.***

### #2 Please consider giving at this time:

***We have opened our Fall fundraising efforts for The Family Foundation, and we invite you to join with us. We have a “heavy lift” this year with the “Instant Racing” court case AND preparation for the 2018 General Assembly. Any gift will help immensely. All gifts are tax-deductible. Kindly make checks to:***

**“The Family Foundation” and mail to:**  
**P.O. Box 911111**  
**Lexington, KY 40591**

***For more, please call 859-255-5400 or email [kent@kentuckyfamily.org](mailto:kent@kentuckyfamily.org)***

*Kt*