

ACLU Montana



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SPRING/SUMMER 2021

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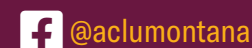
Dustin Schneider (Billings)

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A MESSAGE FROM CAITLIN, OUR EXECUTIVE DIRECTOR



Dear ACLU of Montana Supporters,

This has been unquestionably the hardest legislative session in nearly two decades, and probably in the entire history of the ACLU of Montana. The number of bills, the breadth of issues addressed, the hatefulness of the rhetoric, the disrespectful way in which courageous impacted community members were treated in the hearings, the mockery that was made of fair and deliberative processes were all so much worse than we could have imagined, and we'd known it would be bad. And to top it off, this all occurred amid a pandemic that some legislators seemed determined to pretend didn't exist. And yet, my heart is full. Throughout it all, our team supported each other and put heart and soul into fighting for justice. I'm humbled and floored by the work that was done this session. When supporters have called the team heroes, that was not hyperbole.

The team plunged into a session covering multiple complex and critical civil liberties areas, each of which was enough for a full-time job. They showed grit, professionalism, fearlessness, and even a sense of humor under unbelievably stressful conditions. Throughout this session, their presence made it loud and clear that the ACLU of Montana is not going to let our state become a hostile place for civil liberties without a major fight. [see Recap of the 2021 Legislative Session, p. 5]

We are now entering the next phase of intensity, which is going to fall heavily on our legal team's strong shoulders. The team has already begun preparing for a massive litigation response on a vast array of topics. [see Voting Rights Lawsuit, p. 13]

I also want to thank you. Your continued support not only helps financially, but it helps the morale of the team, and it also helps to spread the word of the work we are doing. Without you, our team could not have been as successful and invigorated. You are a huge part of the ACLU of Montana. Whether you give money, volunteer, advocate for positions, or engage with us on social media, we celebrate you and say thank you, from the bottom of our hearts.

In solidarity,

A handwritten signature in black ink, appearing to read 'CAB'.

Caitlin Borgmann

RECAP OF THE 2021 LEGISLATIVE SESSION

By **Kirsten Bokencamp**
former Communications Director

and **Gujari Singh**
Communications Director

The Legislative Session this year brought an unprecedented onslaught of legislation attacking Montanans' civil rights and liberties. Our team worked incredibly hard against bills that undermined fundamental rights of people living in Montana – especially transgender youth, people in the criminal legal system, immigrants and refugees, Indigenous and young voters, and pregnant people. Thank you for all you did this session to hold lawmakers accountable. Because of you, lawmakers received thousands of emails and phone calls. A lot of harmful bills still passed, but you helped stop some terrible bills from getting through.

For those bills that passed, we will continue to fight and already have several lawsuits lined up. We also had a few wins, especially around some reforms to improve Montana's criminal legal system.

This isn't an exhaustive list of all of the bills we supported or opposed, but here's a rundown of the bills on which we spent the majority of our time. We worked closely in coalition with other organizations and individuals on nearly all these bills, and we are so grateful for those partnerships.

LGBTQ EQUALITY

Montana legislators, like many across the country, made the disturbing decision to attack trans youth, LGBTQ, and two-spirit people in this session. Despite all of the advocacy against these discriminatory bills, a few made their way to Governor Gianforte's desk:

- SB 215 established the Religious Freedom Restoration Act, which could open the door for Montana businesses and services to claim religion as an excuse to discriminate against LGBTQ people and others.
- SB 280 will make it harder, and sometimes impossible, for trans and non-binary Montanans to change the gender marker on their birth certificate. The new law requires that the person have surgery and a court order before changing their gender marker. This is misguided because not all trans and non-binary people want surgery. Others may not be able to afford it. Identity documents with the incorrect gender expose transgender people to a range of negative outcomes, from denial of employment, housing, health, and public benefits, to verbal harassment and even physical violence.

“For those bills that passed, we will continue to fight and already have several lawsuits lined up.”

- HB 112 bans trans girls from playing on a girls' sports team. Trans students participate in sports for the same reasons other young people do: to challenge themselves, improve fitness, and be part of a team. Excluding trans students from participation just deprives them of opportunities available to their peers and sends the message they are not worthy of a full life. Even with all the advocacy from around the state (and there was a lot!), anti-LGBTQ legislators and Governor Gianforte decided to ignore the people and pass this into law.

Because of all the amazing advocacy from trans people and allies, business leaders, medical professionals, and more, together we managed to shut down a few anti-trans bills.

- HB 113 would have banned gender-affirming surgery for trans youth. HB 427 was a similar bill that also failed to pass. Both 113 and 427 would have severely compromised positive health outcomes for trans youth and targeted trans youth for discriminatory treatment. Denying best-practice medical care and support to trans youth can contribute to depression, social isolation, and even suicidality. Enough legislators agreed that healthcare decisions should be made between doctors, patients, and their families -- not politicians.

For all the LGBTQ folks out there, and especially trans youth, we want you to know that we see you and love you, we are grateful you are part of our families and communities, and together with you, we will continue to fight for nondiscrimination and equality in Montana.



Photographer: Janie Osborne

REPRODUCTIVE FREEDOM

During this session, we saw an unprecedented attack on reproductive freedom. Montana's constitution has unique privacy provisions that provide even stronger protections than our federal constitution. But that didn't stop legislators from drafting nearly 20 anti-abortion bills this session. While several anti-abortion bills passed, this is far from over. We will work with coalition partners to fight back against these unconstitutional bills and ensure that access to legal abortion remains the law of the land.

Governor Gianforte signed numerous anti-abortion bills into law including:

- Banning abortions after 20 weeks of gestation (HB 136), including imposing harsh civil penalties on medical professionals who provide abortions after 20 weeks.
- Attempting to shame those seeking an abortion (HB 140), by requiring healthcare providers to record whether a patient chose to view an ultrasound or listen to a fetal heartbeat.
- Restricting abortion by forbidding some tax-payer-subsidized insurance policies from covering abortions (HB 229).
- Requiring all medications to induce an abortion to be distributed in person. HB 171 also requires providers to communicate to the patient a plethora of exaggerated and medically unsubstantiated risks which are only meant to scare and intimidate patients. This bill is so extreme that it could lead to health care providers ending up in prison for 20 years.

We did kill a bill that would have placed a question on the 2022 ballot that, if approved by voters, would change the state constitution by granting the full rights guaranteed by the Montana Constitution to a fertilized egg or fetus, separate from the pregnant person. This would have completely criminalized abortion in Montana, not to mention impacting other areas of health care and more. Unfortunately, another bill passed that will place a redundant and unnecessary question about abortion on the 2022 ballot. The referendum will require health care providers to take "all medically appropriate and reasonable actions to preserve the life and health" of any child born as the result of natural, induced, or cesarean labor or abortion. This is already standard practice during labor and delivery, and there is no such thing as abortion during labor and delivery. Montana law already criminalizes purposefully, knowingly, or negligently causing the death of a premature infant that is "born alive." As such, this was a ploy by anti-abortion lawmakers to ensure that abortion will be a central theme of future political races.

"During this session, we saw an unprecedented attack on reproductive freedom."

What you need to know, is that abortion remains protected as a fundamental right under Montana's constitution for now. And we will fight to keep it that way.

FREEDOM OF SPEECH

In this session, we saw bills that dealt with free speech in public universities. We supported HB 218, which prohibits school administrators from confining political expression to designated areas on public campuses. This bill passed with bipartisan support and was signed into law. A bill that we opposed, HB 349, was also signed into law. This bill will allow individual student groups to discriminate in their membership and ensures that they will still be eligible for school funding.

PRIVACY

We supported a bill, SB 156, signed by the Governor, that will stop the unregulated scanning, retention, and dissemination of the information contained in Montanans' driver's licenses and better protect people from identity theft. Another bill that we also supported and that passed (HB 602), will offer protections to Montanans against unreasonable searches and seizures while they enjoy technological advancements that allow them to better understand their ancestry and health information.

CRIMINAL LAW REFORM

We supported a number of bills this session that will improve Montana's criminal legal system. Like in most cases, working as part of a coalition was key to the successes we achieved. Here are a few bills that passed that will have a positive impact on Montanans:

- HB 701 now contains provisions for people with previous marijuana convictions to have their records expunged and sentences reduced. Nobody should be jailed because of marijuana possession.

- HB 92 will provide compensation for people who were wrongfully convicted. There is nothing the state can do to make up for imprisoning an innocent person, but it is our hope that compensation will provide some measure of support for people whose lives were upended by a wrongful conviction.
- Rates and fees for making a phone call from prison and jails can sometimes be exorbitant. We passed a study bill (SB 303) that will look into limiting these rates.
- We also successfully worked to limit unnecessary punishment and jail time by offering amendments to ameliorate several bills, including numerous bills to expand the use of mandatory minimum sentences in Montana law.
- Some lawmakers put in a major effort to bring back lethal injection. In a huge win, we narrowly defeated this harmful bill (HB 244) that would have resumed executions in Montana (currently suspended as a result of our lawsuit in *Smith v. State*).
- We also defeated a bill (HB 195) that would have excluded incarcerated people from protections under the Montana Human Rights Act. A jail or prison sentence should not make a person an open target for discrimination.
- We helped defeat SB 194, a bill that would have expanded private companies' authority to arrest and detain Montanans.

IMMIGRANT JUSTICE

Immigrants are part of our families and communities. In coalition with others, we fought a few bills that will harm immigrants and the communities in which they live. Unfortunately, HB 200 and HB 223 passed and were signed by the Governor. These bills force local law enforcement to take on the role of federal immigration officials and establish penalties for local governments that opt out of enforcing immigration detainers. It's well documented that these laws will harm immigrants, increase racial profiling, and make communities less safe. We sued on this very issue in 2019 and won. We will continue to work to end ICE detainers.

We also stopped numerous attempts to end Montana's participation in refugee resettlement programs by turning away nearly \$800,000 in federal funding.



VOTING RIGHTS

Unfortunately, once again the legislature did everything within its power to restrict Indigenous voting rights. We defeated a bill (HB 455) that would have restricted absentee ballots. In bad news, HB 530 passed, which limits ballot collection on rural reservations. Last year, together with the Native American Rights Fund, we sued on this issue -- and won. Limiting ballot collection disproportionately harms rural Indigenous voters. A bill, HB 176, that ended Election Day voter registration also passed and was signed by the Governor. This new law will harm a lot of Montanans, especially Indigenous voters. We have already sued to overturn both HB 530 and HB 176. [see Voting Rights Lawsuit, p. 13]

INDIGENOUS JUSTICE

We supported Indigenous-led organizations and Indigenous organizers in their work to pass HB 35, HB 98, and SB 4, three bills that will bring more resources and attention to the crisis of Missing and Murdered Indigenous People. We also supported bills that would have established Indigenous Peoples' Day in Montana, which were unfortunately defeated. We also fought against HB 481, a bill that creates draconian penalties of up to 30 years for people and organizations protesting around pipelines and other 'critical infrastructure.' While we were able to significantly narrow the bill's scope, it ultimately passed and now awaits the Governor's signature.

"Some lawmakers put in a major effort to bring back lethal injection. In a huge win, we narrowly defeated this harmful bill (HB 244) that would have resumed executions in Montana (currently suspended as a result of our lawsuit in *Smith v. State*)."

JUDICIAL INTEGRITY

We stopped several bills (SB 271, HB 342, HB 355) that would have made our courts partisan. A few bills did pass (SB 140, HB 325) that are that are patent efforts to undermine the independence of Montana's judiciary.

We faced an unprecedented session replete with attacks on Montanans' rights and freedoms. But we did have some wins. We are proud of the bills we helped to pass that will further protect Montanans' civil rights and liberties. We are proud of stopping some bad bills. And, where we had losses, we will not give up. This session was better because of you! We sent a lot of emails and actions out and your response was incredible. Thanks for your part in creating a better Montana, and thanks for sticking with us --there's a lot of work ahead.



Montana

Make a gift using your IRA to support the ACLU's work today!

Federal law allows people age 70½ or older to make direct transfers to charitable organizations from their IRA, without the withdrawal being treated as taxable income. This will count towards your Required Minimum Distribution.

Contact your IRA custodian and follow their procedures to request a "Qualified Charitable Distribution." The check must be accompanied by your name and address information in order for you to receive a written acknowledgment from us. You will need this information:

ACLU of Montana Foundation

Tax ID# 81-0445339

Mail to: ACLU-MT

PO Box 1968, Missoula, MT 59806

Questions? Contact **Alyssa Kelly**, Development Associate, at kellya@aclumontana.org for more details.

ACLU OF MONTANA IN THE TIME OF COVID-19

Like so many other organizations, in March of 2020, we closed the doors to the office and everybody started working from home. We didn't know how long it would last, but our first priority was to stay safe and keep our communities safe. Our incredible operations team ensured that all the staff had what they needed and felt supported in our new "home offices," and despite COVID, we kept on working! Over a year later, we reflect on this experience.

Caitlin Borgmann

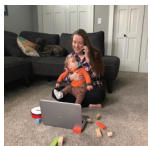
Executive Director



The good: cat keeping me company on my desk; lunches catered by my husband; seeing everyone's faces on Zoom. The bad: cat sitting on my keyboard; eating, working, and sleeping in the same place; seeing everyone only on Zoom.

Kileen Marshall

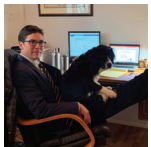
Director of Philanthropy and Strategic Initiatives



I entered my third trimester when the pandemic started. Things have been a bit hectic with no daycare, but we are making it work! I'm sure I'll look back one day and cherish a year of seeing my daughter Hazel all day long... right now it feels like we're running a marathon every day.

Alex Rate

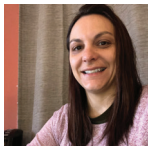
Legal Director



Business on the top, casual on the bottom. Just the way I like it.

Krystel Pickens

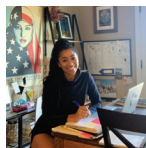
Paralegal



The best part about working remotely is keeping my family and community safe. I also have the added benefit of extra bonding time with my eldest, all while staying connected to colleagues through Zoom.

Akilah Lane

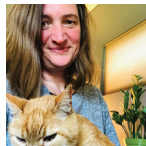
Staff Attorney



I enjoy working at home and always being able to wear comfortable clothes and have quick and easy access to my refrigerator. The hard parts of working from home have been related to failing at homeschooling.

Britta Blödorn

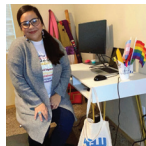
Director of Finance and Operations



Miss seeing our colleagues in person, but Loki (my cat) and I very much like working from home!

Sharen Kickingwoman

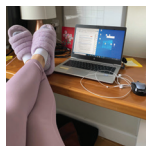
Indigenous Justice Program Manager



While I miss my ACLU colleagues and seeing them every day in the office, I've come to enjoy my new WFH coworkers-- dog pals Bobo, Pepper, and Mooki (even if they mostly sleep, get in the way, or bark when it's my turn to speak!). And even though I've been at home during the pandemic, I've been loving the beach Zoom background as my little escape!

Alyssa Kelly

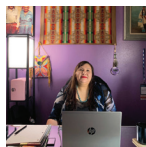
Development Associate



I love working in my cozy clothes and having snacks available at all times. The downside is there is no separation between work and home, so time and space are a fluid concept. There have been entire days I didn't leave my house.

Angeline Cheek

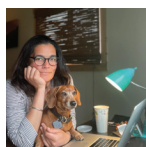
Indigenous Justice Organizer



I love working from home because it keeps me safe from COVID19 and I'm able to stay connected with everyone through Zoom, Webex, Google Teams, etc. without traveling. The technical difficulties are minor and a nuisance, but what matters is the safety of our health/well-being.

Gujari Singh

Director of Communications



I enjoy working from home and I know my dogs appreciate it as well. The only downside is I run out of food and coffee much faster.

UPDATES FROM OUR LEGAL DEPARTMENT

By Alex Rate
Legal Director

THE MONTANA SUPREME COURT AGREES WITH US: THE CASE OF STOLEN VALOR

Last October we filed an amicus brief in a case where a Montana judge sentenced two men who lied about serving in the U.S. Military to a humiliating punishment designed to dehumanize them. As part of their punishment, they were told they must stand at the Montana Veterans Memorial for eight hours on each Memorial and Veterans Day until the end of their sentences, wearing a sign that reads “I am a liar. I am not a veteran. I stole valor. I have dishonored all veterans.” In our amicus brief, we argued that this punishment was unconstitutional because it violated the men’s fundamental right to human dignity and their right against forced speech under the Montana Constitution. In a favorable ruling in April, the Montana Supreme Court canceled the conditions and ruled that the judge improperly punished the two men.

IN A WIN, OUR CLIENT STEVEN KEEFE HAS THE OPPORTUNITY FOR RESENTENCING

Together with the Phillips Black Project, we filed a lawsuit on behalf of Steven Keefe in 2016. In 1985, Mr. Keefe was sentenced to life without parole. He was 17 years old. Since then, science has shown that young people have a unique ability to change, and thus juvenile life-without-parole sentences are unconstitutional. Numerous court rulings have recognized that juvenile life without parole is akin to a death sentence, and currently, more than half the states in the country have completely abandoned the practice.

This January, in a favorable ruling, the Montana Supreme Court overwhelmingly affirmed the principle that juveniles are fundamentally different from adults and as such should be afforded greater constitutional protections. The Court agreed that Mr. Keefe should have the opportunity to go in front of a parole board, show how he has transformed over the last 36 years, and request resentencing. Currently, Mr. Keefe is the only person in Montana who was sentenced to life without parole as a juvenile. We’d still love to see Montana take this antiquated law entirely off the books.

VOTING RIGHTS LAWSUIT

This May, with partners the Native American Rights Fund and ACLU’s National Voting Rights Project, we filed a lawsuit challenging HB 176 and HB 530. HB 176 ends same-day registration and, HB 530 blocks organized ballot collection on rural reservations. These new laws would significantly restrict access to the ballot box for our clients, Western Native Voice and Montana Native Vote (Native American-led organizations focused on getting out the vote and increasing civic participation in the Native American community); and the Blackfeet Nation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Fort Belknap Indian Community, and Northern Cheyenne Tribe.

Rural reservations are incredibly isolated, creating significant voting barriers for Native Americans. The distance to travel to register and vote, limited mail routes, disproportionately high levels of poverty on reservations, and digital divide issues make it significantly more difficult for Native Americans to participate in the political process. To overcome these barriers, many rely on same-day voter registration and organized ballot collection so they can minimize the trips needed to the polling center or elections office.

These new laws violate our clients’ constitutional right to vote, right to free speech and right to due process of law. The lawsuit, *Western Native Voice v. Jacobson*, was filed in the Montana 13th Judicial District Court of Yellowstone County.



MEET OUR NEW STAFF



Akilah Lane

Staff Attorney

Akilah was born in the East Bay Area of California and spent the first half of her childhood there, before moving to Tacoma, Washington. Growing up in a single-parent household at the intersection of poverty and race, with a disabled brother and a learning-disabled sister who also suffered from mental illness, and who was funneled out of mainstream schools and into the criminal legal system, Akilah saw firsthand the many barriers to access, equity, and justice faced by a large portion of the population. These experiences shaped her view of the world and grew within her a dedication to ensuring meaningful access to opportunity, justice, and equal rights under the law for all.

Akilah received her undergraduate degree in Politics from Willamette University. In 2009, she graduated from Santa Clara University School of Law where she was honored with the Outstanding Graduate Award. While in law school, Akilah served on the student boards of the Black Law Student Association and the ACLU. She also interned at the San Jose Public Defender's Office in both the juvenile justice division and on a felony trial calendar assignment. Additionally, Akilah interned at the Mental Health Advocacy Project of the Silicon Valley Law Foundation. Prior to joining ACLU Montana, Akilah worked as a staff attorney with Montana Legal Services Association providing legal support and assistance to survivors of domestic violence.

Akilah is passionate about building an inclusive community, centered on awareness of social justice issues. In her free time, Akilah enjoys dancing, floating rivers, and hiking to alpine lakes with her two children. When not with her children you can find her trail running, racing half and full marathons, and learning more about Black history - especially related to her Gullah heritage.



Gujari Singh

Communications Director

Gujari Singh joined the ACLU of Montana in April 2021. As Communications Director, she is charged with formulating and implementing communications strategies to advance the work of the ACLU of Montana.

Before joining the ACLU of Montana, Gujari was the Communications Director for the Sikh American Legal Defense and Education Fund (SALDEF). Previously, Gujari worked at World Wildlife Fund and the Council on Foreign Relations. Gujari has worked on various social justice issues including advancing rights and freedoms for Asian American people, immigration reform, media censorship, and religious freedom.

Gujari holds a Master in International Media from American University and a Bachelor of Arts degree in Art History and Fine Art from Stony Brook University. Originally from Punjab, India, Gujari enjoys traveling throughout Asia and reading on the history of the region. She is also an avid equestrian, photographer, and gardener.



Mariah Welch

Summer Legal Intern

Mariah was born in Billings, Montana, where she spent the majority of her childhood. Mariah grew up in an activist home and started her first campaign in the 3rd grade to eliminate plastic waste. She received her undergraduate degree in Political Science and Women's Gender and Sexuality Studies from the University of Montana. While attending UM, she served as the Vice President for the Associated Students of the University of Montana, as a Board Member of Planned Parenthood of Montana, and as President of the Montana Associated Students.

Mariah is a rising 2L at Gonzaga University School of Law and is projected to graduate in Spring of 2023. While attending Gonzaga Law, she has served as a representative for the Women's Law Caucus and as the Social Justice Chair of the Student Bar Association.

In her free time, Mariah enjoys baking, cross-stitching, traveling, and anything involving the water.

A HUGE THANK YOU TO KIRSTEN BOKENKAMP, SAM FORSTAG, & LAUREL HESSE!

Kirsten joined the ACLU of Montana in October 2018. As Communications Director, she was charged with formulating and implementing communications strategies to advance the work of the ACLU of Montana. Kirsten has been a critical part of the team for the past couple of years. She took the lead on and co-authored our groundbreaking 2019 report *Empty Desks: Discipline & Policing In Montana's Public Schools*, which documented the ways in which Indigenous students, students of color, and students with disabilities are disproportionately disciplined in the state's public school system.

Thank you, Kirsten, for extending your time with us to provide crucial communications support. Thanks to you, more Montanans know when civil rights and civil liberties are being threatened in Montana, what we are doing about it, and how they can help.

Sam and Laurel joined the ACLU of Montana in December of 2020 as the two Legislative Program Managers for the 2021 legislative session. They were tasked with working collaboratively to develop and execute the ACLU of Montana's legislative

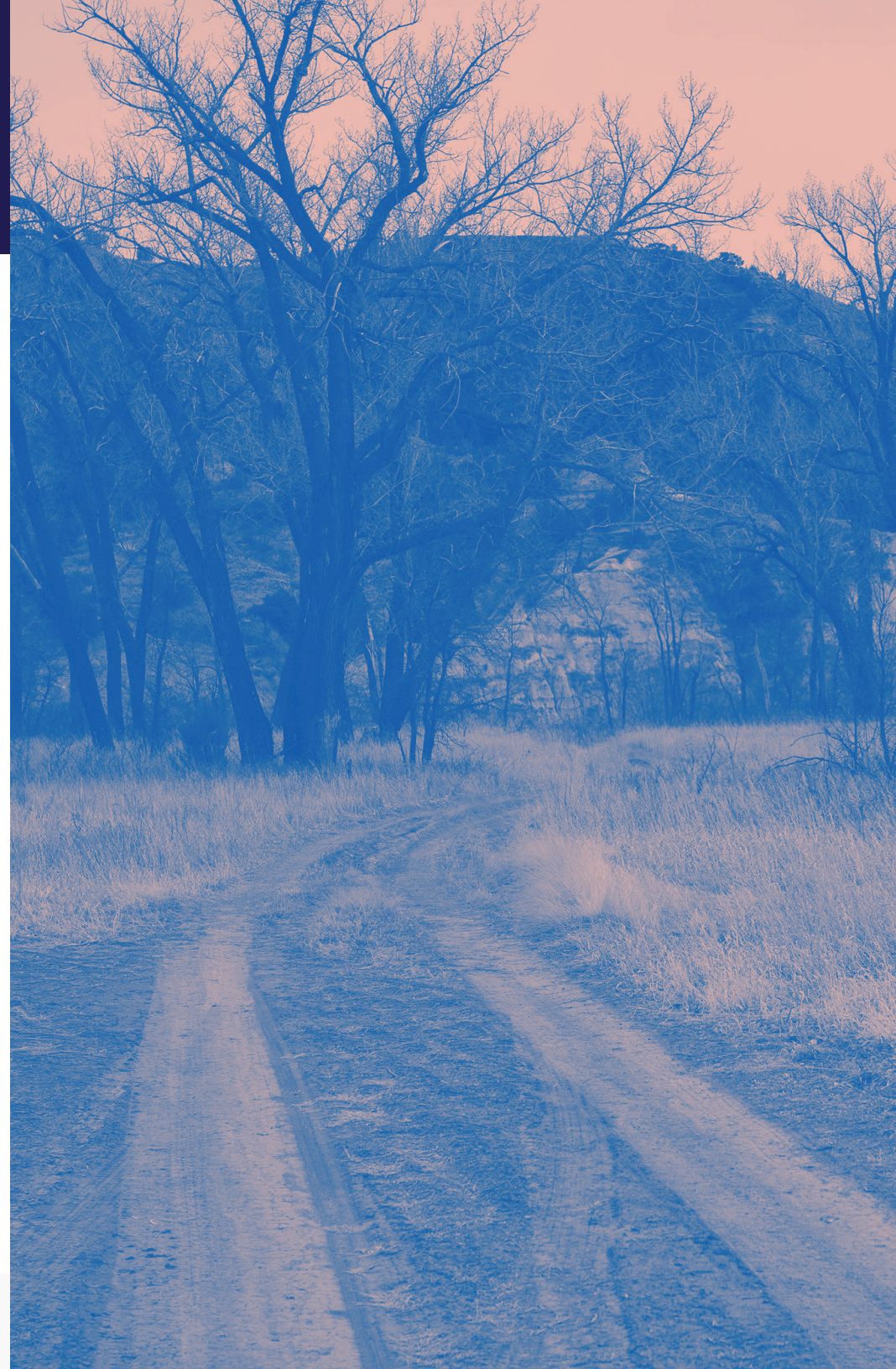
“Thanks to you, more Montanans know when civil rights and civil liberties are being threatened in Montana, what we are doing about it, and how they can help.”

agenda, including tracking legislation, delivering testimony, participating in coalition strategies, and lobbying.

Sam acted as the lead on legislation related to voting rights, the criminal legal system, Indigenous justice, immigration rights, and the

state budget. Laurel acted as the lead on legislation related to reproductive freedom, LGBTQ rights, privacy rights, and First Amendment rights (including freedom of speech, assembly, and religion).

Thank you, Laurel and Sam, for providing crucial expertise, dedication, and tireless work during this stressful time. With the odds stacked against you, you continued to fight and even eked out some impressive victories that will alleviate the need for litigation in key areas.



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