

AN EDUCATIONAL UPDATE FROM
THE SOUTHEAST LAW INSTITUTE™, INC.

To: SLI Supporters
Date: August 2015
From: A. Eric Johnston
Re: Trying Times in the Alabama Legislature – The 2015 Regular Session

We knew before the legislative session began it would be a difficult year. It was the first year in a quadrennium with an unusually large number of newly elected legislators. State revenue shortfalls would require attention. At the same time, there were pressing needs to address potential same sex marriage related issues and the never tiring effort to protect the sanctity of life. This month's Update is a brief summary of some of the bills with which we were concerned:

- **HB56 - “The Freedom of Religion and Marriage Protection Act”** (Rep. James Hill): This bill would amend existing law to provide that ministers, priests, rabbis, *etcetera*, and judges are not required to solemnize any marriage. While the law authorizes them, the law cannot require them, to perform marriages. Churches, synagogues and other religious places would not be required to accommodate marriage activities.
- **SB377 – Marriage as a Contract** (Sen. Greg Albritton): The objective of this bill was to remove “marriage” as a state regulated activity and replace it with marriage being a contract that would be merely recorded with the state. It would not affect marriage as a religious sacrament and ceremonies could still be performed. It would protect probate judges from having to issue same sex licenses in violation of their religious beliefs.
- **HB296 – “The Alabama Child Care Provider Inclusion Act”** (Rep. Rich Wingo): There are a number of church and religious ministries engaged in child placement (adoptions, foster homes, *etcetera*) who are licensed by the State Department of Human Relations, *viz.*, Alabama Baptist Children's Home, Catholic Social Services, Lifeline Children Services, *etcetera*. The purpose of the bill was to prohibit discrimination against those ministries who would not make placements in homes that would violate their sincerely held religious beliefs. DHR could not refuse to license, contract with, or otherwise permit their operation.
- **HB615 – Alabama Discrimination Law** (Rep. Chris England): Alabama does not have laws against discrimination, except for age. This bill would provide a new cause of action (lawsuit) for Alabama citizens against employers, and in public accommodations, housing, property transactions, contracts, *etcetera*, if a person is discriminated against because of race, color, religion, national origin, sex, *sexual orientation, gender identity, disability or familial status.*” It is difficult to oppose a law that would prohibit discrimination. However, to include those italicized portions at this time is premature. Until the U.S. Supreme Court rules on the same sex marriage issue and the quality of a constitutional right that might be enjoyed by a homosexual person, it is not appropriate to include those categories.
- **Unfiled Bills Related to Same Sex Issues:** SLI proposed a number of bills to legislators to address the prospects of the U.S. Supreme Court authorizing same sex marriage. The most important of these proposals was a bill that would provide protection to private and public employees from being required to provide a product or service that would violate their sincerely held religious beliefs. This would apply to an objectionable marriage (bake a cake, arrange flowers, issue a marriage license, *etcetera*). But, because marriage is only the beginning of changes in our laws, it would also apply to adoption, inheritance, child custody and other products or services, public or private, that will occur due to the redefinition of marriage and family. The objective was to protect religious freedom, while recognizing the inevitability of the requirements of federal law. No legislator filed this bill.
- **HB497 – “Assisted Suicide Ban Act”** (Rep. Arnold Mooney): There are 43 states that prohibit assisted suicide. Alabama has general criminal laws on taking someone's life, but not specifically addressing assisted suicide. Recent efforts to legalize assisted suicide in other states have caused us to refocus on the need to specifically address this issue. The bill would criminalize assisting someone to commit suicide including by healthcare providers. This is protection of the sanctity of life at the other end of the life spectrum, particularly guarding the lives of the impoverished, elderly, disabled, abused and neglected.
- **HB491 – “Healthcare Rights of Conscience Act”** (Rep. Arnold Mooney): For many years we have introduced this bill to state that healthcare providers cannot be required to perform abortions,

embryonic stem cell research, human cloning or sterilization. These are unusual activities, but which exist, particularly in the research setting. These all involve the ethical issues surrounding the meaning of life.

- **HB405 – “The Fetal Heartbeat Act”** (Rep. Terri Collins): The heartbeat of an unborn child begins at about 22 days and can be heard at between 10 to 12 weeks. This bill would require a physician to determine if there was a heartbeat and if there was, an abortion could not be performed. The bill provided significant standard of care protections and violation would be a Class C felony.

- **HB527 – 2000 Foot Abortion Clinic Location Buffer** (Rep. Ed Henry): This bill would require that an abortion clinic be located at least 2000 feet away from a public school. The objective was to move abortion clinics away from areas where children and students might be exposed to the activities both inside and outside of the clinics.

- **SB67 – Prison Reform** (Sen. Cam Ward and Rep. Mike Jones): This was a significant bill meant to restructure many of the sentencing and related activities in the criminal process in order to reduce prison overcrowding and update many of Alabama’s laws. Under existing law, church and religious operated drug and alcohol rehabilitation ministries could not participate as resources in the judicial process. Although some judges made referrals to the ministries, the law actually did not permit it. A provision was included in the bill to permit ministry participation without incurring state regulation, so long as the ministry did not receive state funds. This was a significant step for permitting Christian alternatives to secular and legal options for dealing with many who are not common criminals, but who are ordinary persons caught up in the pervasive drug and alcohol culture of today. The bill became law.

- **HB55 – “Alabama Released Time Credit Act”** (Rep. Kerry Rich): Prayer and Bible reading were removed from schools in the 1960s and since then virtually any religious activity and certainly religious instruction have been removed from public schools. This bill would permit public school students to leave school during the school day and go to a local church or other ministry for Bible study or other religious activity and earn one elective credit.

- **SB453 – Gambling** (Sen. Del Marsh): This bill proposed an Alabama constitutional amendment to permit a lottery and unlimited casino gambling for both non-Indian and Indian operations. The bill would permit Las Vegas style gambling at seven venues in the state. For more detail see the June Educational Update.

Unless noted for a particular bill, none of the foregoing passed. We are very disappointed in the work of the Alabama Legislature for this year. We understand there are many important practical and necessary laws that need to be passed to keep the state operating. But we also recognize that we must have laws that protect our values, which in turn make Alabama a good place in which to live and to raise our families. The Alabama Legislature largely ignored this responsibility in 2014.

We find it curious that a Republican led legislature can give priority to alcohol sales expansion and even gambling, while at the same time ignoring legislation like most of those listed above. We made similar observations following the 2012 regular session.¹ Quoting Lewis Carroll through *Alice in Wonderland*:

“If I had a world of my own, everything would be nonsense. Nothing would be what it is, but everything would be what it isn’t. And contrawise, what is, it wouldn’t be. And what it wouldn’t be, it would. You see?”

We have many good and supportive friends in the Legislature. But for many others and as a whole, the Legislature is “what it wouldn’t be,” rather than what “it would.” Encourage your legislators to step up and do the right things. Pray for and encourage them. Communicating with your legislators on a regular basis is one of the most important duties of a citizen. Expressing your views and encouragement on issues of interest to you is as necessary a job as the job the legislators do representing you. If we do not do our duty, we too are to blame.

The Governor has called a special session and the Legislature will actually begin meeting August 3. There will only be a week or so left in the session by that time to do anything. The gambling amendment noted above has been reintroduced (SB8). We asked the Governor to include traditional marriage protections in the call, but he failed to do so. This special session may be indicative of the tone we can expect in the future from our Legislature.

¹ See our June 2012 Newsletter and Educational Update online.

