

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

**To:** SLI Supporters  
**Date:** February 2016  
**From:** A. Eric Johnston  
**Re:** A Report on SLI Activities

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This month's Educational Update is a brief report on some of our activities, and interests, including some bills that may be filed in the Alabama Legislature. This is not an all inclusive report, but calls to your attention some things we believe are important.

### JUDICIAL

***Ex Parte State of Alabama ex rel. Alabama Policy Institute and ALCAP*** – We reported in December that we were awaiting the decision of the Alabama Supreme Court in this case concerning the constitutionality of Alabama's traditional marriage laws. On January 6, 2016, Chief Justice Roy Moore issued an administrative order declaring that Alabama's probate judges were still bound by the Alabama Supreme Court's March 3, 2015 order upholding Alabama marriage laws and that the June 29, 2015, *Obergefell* opinion by the U.S. Supreme Court did not change that. While this order was ridiculed in the press and some legal experts, we believe it is correct. If Alabama had no court opinion on the issue and a lawsuit was filed, it is likely the *Obergefell* decision would be cited as precedent and based on the doctrine of *stare decisis*, the case would be dismissed. However, there is an extant Alabama Supreme Court opinion in conflict with a U.S. Supreme Court opinion. Alabama was not a party to *Obergefell* and therefore not under the order of the U.S. Supreme Court. Consequently, it is proper for the Alabama Supreme Court to rule, in light of *Obergefell*, and then a review be requested by the U.S. Supreme Court, if appropriate.

**Christmas Activities** – We spoke with several individuals and groups during the holidays on various rights of citizens to engage in Christmas activities on public property. One of the most refreshing was an event that took place in Rainbow City, AL. In 2014, the city had a nativity scene that had been challenged by the Freedom From Religion Foundation ("FFRF"). There was no lawsuit, but the city elected not to return the nativity scene this year. As a consequence, Mack Butler, a representative in the Alabama Legislature from the area, organized the "Night at the Nativity" event in Rainbow City. Entirely organized and supported by citizens, there was a live nativity at the Rainbow City Hall, after hours and not paid for with any city funds. The FFRF demanded information from Mr. Butler under the Alabama Public Records Act. This was an attempt to establish this was a government organized activity, which it was not. We assisted Mr. Butler in his response to FFRF. No further action was taken and the event was a success.

### LEGISLATIVE

**Unborn Infant Dignity Act** – In light of the Planned Parenthood baby body parts scandal, this bill would permit parents to determine dignified disposition of the bodily remains of an unborn child and criminalize any sale of baby body parts for any reason whatever.

**Prohibition of Physician Assisted Suicide** – There has been a recent push in several states to legalize physician assisted suicide. This bill prohibits a healthcare provider from assisting a person to commit suicide, i.e., prescribing a method or manner of death. It does not affect end of life instructions in living wills.

**Healthcare Rights of Conscience Act** – This bill protects a healthcare provider from having to perform services related to euthanasia, abortion, embryonic stem cell research and human cloning.

**The Religious Belief Protection Act of 2016** – This bill protects public and nonpublic employees, and businesses, from having to provide products or services that would violate their religious beliefs related to marriage, sexual relations and the family.

**Child Care Inclusion Act** – Christian operated child placing agencies place children for foster care and adoption into Christian homes. They should not be required to violate their religious beliefs by a law that might require placement in a same sex marriage or other offensive relationship.

**Lottery** – Lottery bills have been introduced to amend the Alabama Constitution to give the Legislature the ability through a general law to set up a lottery. Contrary to sponsor's assertions, it will permit the Legislature, not the people, to significantly expand gambling in Alabama.

This statement is for educational purposes only. It is not intended to provide legal assistance. We hope if you have questions or know of those who do, you will contact us and we can assist through referral to one of our cooperating attorneys. © 2016, Southeast Law Institute.