



168th New Hampshire Legislative Session

The American Civil Liberties Union of New Hampshire (ACLU-NH) is a nonprofit, nonpartisan membership organization dedicated to preserving the individual rights and liberties guaranteed in the Bill of Rights and the Constitution. ACLU-NH, founded in 1968 by a small group of devoted civil libertarians, is one of 53 affiliates of the ACLU Nationwide.

The 168th New Hampshire legislative session will convene on January 5, 2022. Below are the ACLU of New Hampshire's key legislative priorities during the 2022 session.

Public Safety

To build safe and just communities, we must build a public safety system that ensures the safety and well-being of all and prioritizes investments in life-affirming services.

- *End New Hampshire's War on Marijuana* – Legislators must legalize the possession of marijuana by adults with racial equity at the foundation of this reform. New Hampshire's marijuana laws needlessly ensnare thousands of people -- disproportionately Black people - in its criminal justice system every year. This does not make us safe, wastes taxpayer dollars, and it ruins lives.
- *Prioritize Harm Reduction* – Legislators must transition to and invest in a public health-centered approach to drug use. As New Hampshire continues to witness high rates of overdose deaths, it is time for the state to destigmatize and decriminalize drug possession and study the feasibility of implementing an Overdose Prevention Sites in the state. These sites have a significant association with reducing overdose fatalities, HIV and HCV transmission, syringe sharing, public injection, ambulance usage, and crime.
- *Don't Roll Back Reforms to New Hampshire's Bail System* – Legislators must oppose efforts to revert to a bail system that needlessly incarcerated thousands of Granite Staters at a staggering financial cost to taxpayers. This legislation is based in fear, not evidence. In fact, crime rates in NH have decreased over 14 percent since the implementation of bail reform. Current law already allows a judge to detain individuals pretrial if they are a flight risk or danger to the community and judges should retain that discretion.
- *Eliminate Inhuman and Counterproductive Punishments* - Legislators must focus on non-carceral approaches to public safety, diverting more people from entering our jails and prisons and eliminate one-size-fits-all mandatory minimum sentences that remove the power to judges and juries to make appropriate sentencing decisions.
- *Rein in Policing for Profit* - Legislators must continue to move toward the elimination of civil asset forfeiture, including by eliminating loopholes that allow state and local law enforcement agencies use of federal forfeiture laws that permit law enforcement to take and keep your property without even charging you with a crime.
- *Stop Shackling Pregnant People who are Incarcerated* – Lawmakers must end the cruel and inhumane practice of shackling incarcerated people during labor, childbirth, and postpartum recovery. The practice of shackling incarcerated people while they are pregnant, in labor,

giving birth, and recovering from birth has been opposed by the nation's leading experts in maternal, fetal, and child healthcare, including the American Congress of Obstetricians and Gynecologists (ACOG), the American Medical Association, and the American Public Health Association. Additionally, the Federal Bureau of Prisons, U.S. Immigration and Customs Enforcement and the American Correctional Association have all adopted policies to limit the use of shackles on pregnant people who are incarcerated. It is time for New Hampshire to expand this prohibition to all incarceration facilities in the Granite State.

- *Transparency around Federal Checkpoints:* During federal immigration checkpoints, federal agents stop and seize likely thousands of individuals travelling through New Hampshire's roadways without any probable cause or reasonable suspicion that a crime has been committed. They also have been recently used for drug enforcement, which is unconstitutional. Given the significant intrusion on civil liberties that these federal checkpoints represent, legislators should support legislation that requires that local agencies provide notice to the public of such immigration checkpoints when they are informed by a federal agency that such a checkpoint will occur. Like the notice that is required for state sobriety checkpoints, this notice is designed to mitigate the significant intrusions on civil liberties that these immigration checkpoints create.
- *Hold Law Enforcement Accountable:* Legislators must end qualified immunity for law enforcement officers. Under the doctrine of qualified immunity, victims of police misconduct must show there is already "clearly established law" where someone else's rights were violated in the same way. Unless victims can point to another case with nearly identical circumstances, their case can't go forward – even when the actions of the police resulted in serious injury or death. It has shielded police officers from being held responsible for all sorts of malfeasance. Law enforcement have the power to take liberty and life, and New Hampshire must ensure that victims of police misconduct can access justice and the police who violate civil rights are held accountable.

Systemic Equality

We must dismantle a system deeply rooted in racist policies, practices, and attitudes that harm Black, Brown, and Indigenous people.

- *Teach Children the Full Picture of American History* – Legislators must repeal the "Banned concepts" law that unconstitutionally chills New Hampshire teachers from covering how America's legacy of racism and slavery impacts today's society and students of color. Legislators should oppose any additional legislative attempts to engage in classroom censorship. We are better as a state and community when we can have hard conversations and learn from them—which is why it's so important that our students get a full picture of America's history and its impact on today's society. We will never achieve systemic equality in America without first providing a full picture of American history.

Reproductive Freedom

We must ensure that every pregnant person can make the best decision for themselves and their family about whether and when to have a child without undue political interference.

- *Prevent the Government from Controlling Private Healthcare Decisions* - Legislators must oppose efforts to prohibit abortions after any embryonic cardiac activity is detected, which is usually at six weeks. Make no mistake, this is intended to ban abortion in New Hampshire.
- *Remove New Hampshire's Forced Ultrasound Law* – Legislators must repeal a law that mandates ultrasounds for every abortion. This law has no medical basis. Its sole purpose is to shame and coerce a pregnant person who has decided to end their pregnancy. This extreme political interference in the doctor-patient relationship should be a cause of serious concern to anyone.
- *Defeat the New Hampshire Health Care Denial Act* – Legislators must not grant medical providers a license to deny services to people seeking reproductive healthcare, including in cases where the life of the pregnant person is at risk. This license to deny services will be felt more severely in rural areas where patients have a limited choice of medical providers.
- *Protect Access to Safe, Legal Abortion* – Legislators must support legislation that would enshrine abortion rights into state law. This legislation would ensure that, regardless of what happens in the U.S. Supreme Court, abortion will remain safe, legal, and accessible in the Granite State.
- *Don't Give Others a Veto over a Pregnant Person's Decision to Have an Abortion* – Legislators must oppose legislation that would give an abortion patient's current or former partner — or anyone who could claim paternity — the power to veto their decision and force them to have a child against their will. No one should be able to make such an important decision for someone else.

LGBTQ Equality

We must build a New Hampshire where LGBTQ people can live openly without discrimination and enjoy equal rights, personal autonomy, and freedom of expression and association. LGBTQ people belong everywhere.

- *Support Trans Youth* - Legislators must oppose efforts to ban young trans athletes from participating in athletic activities consistent with their gender and efforts to interfere with the ability of school staff to do their job, including attempts to require school staff “out” a transgender student to their parents, potentially before the student is ready to share.
- *Maintain the Prohibition on Conversion Therapy* – Legislators must maintain the ban on conversion therapy, a widely discredited practice that seeks to change a person's sexual orientation or gender identity. Conversion therapy has been debunked by every major medical association in the country. Studies show that LGBTQ people who are exposed to conversion therapy are a shocking 92 percent more likely to attempt suicide.
- *Prevent Restrictions on Medical Care for Transgender Youth* – Lawmakers must oppose legislation that would prohibit transgender people under 18 from receiving essential medical care. Affirming a young person's gender through social transition and gender affirming care - including medical care - saves lives. Passage of such a policy could also negatively



impact recruitment and retention of highly qualified medical professionals who would not want to live and work in a state that prohibits necessary medical care.

Access to the Ballot

We must ensure the right to vote, which is the cornerstone of our democracy and the fundamental right upon which all our civil liberties rest.

Redistricting

We must ensure that voters should pick their politicians, and not the other way around.

- *Ensure Fair Maps* – Legislators must ensure that New Hampshire’s new electoral maps, which will play a vital role in Granite State communities and affect our day-to-day lives for the next ten years, reflect the basic principle that every Granite Stater’s voice is heard equally in our elections. It should be the voters themselves who choose their politicians. This is about the very foundation of our democracy.

COVID-19

We must ensure that the government’s response to COVID-19 does not undermine the basic rights of people with disabilities.

- *Keeping Schools Safe for Children with Disabilities* – Lawmakers must oppose efforts to ban school districts from imposing mask mandates. Students with health conditions or disabilities that make them vulnerable to COVID-19 have a right to attend school without endangering their health or safety. Prohibiting schools from taking reasonable steps to protect the health of their students forces parents to make an impossible choice: their child’s education or their child’s health. A ban on mask mandates effectively excludes these students from public schools, in violation of federal disability rights laws. It is illegal, dangerous, and irresponsible.

Technology and Liberty

We must ensure that the use of spying and surveillance technologies by the government, including facial recognition, location-tracking technologies, and communications eavesdropping systems, respect individual’s privacy and are not disproportionately directed towards Black and Brown communities.

- *Restrict the use of Face Recognition Technology* – Lawmakers must support legislation that would prohibit the use of face recognition technology by state agencies. This technology presents an unprecedented threat to our privacy and civil liberties. It gives the government the power to spy on us wherever we go — tracking our faces at protests, political rallies, places of worship, and more. And while face surveillance is a danger to all people, no matter the color of their skin, the technology is a particularly serious threat to Black people because the facial analysis algorithms misidentify Black people at substantially higher rates and because of the overpolicing of Black communities.