



## 2023 Legislative Pre-Session Report 169th 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 4, 2023. Below are the ACLU of New Hampshire's key legislative priorities during the 2023 session.

### Session Priorities:

- o *Build a Society Where “We the People” Means Everyone*
  - o Invest in Communities and People: All New Hampshire residents should ensure basic needs and provide life affirming services, including a living wage; safe, decent, and sanitary housing; adequate nutrition; comprehensive health care and mental health services; and a high-quality education.
    - Support
      - *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.
      - *Expand New Hampshire’s Harm Reduction Strategy*: Lawmakers must provide additional evidence-based harm reduction tools, including allowing the establishment of overdose prevention centers, which are a data-driven approach to saving lives and reducing harm.
    - Oppose
      - *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.
      - *Stop Harmful “Born Alive” Legislation from Controlling Private Healthcare Decisions*: “Born Alive” legislation reinforces a false and unsubstantiated myth by requiring that a fetus born alive must receive life-preserving care. Legislators must ensure that everyone can

make the best decision for themselves and their family without undue political interference.

- *Protect the Privacy of Granite Staters' Health Care Decisions:* Legislators must oppose efforts to single out abortion as the only medical procedure designated for data collection by the Division of Vital Records Administration and/or would require healthcare providers to submit to the state detailed, individualized (as opposed to aggregate) reports on each patient's abortion procedure.
  - *Protect the Safety of LGBTQ+ Students:* Legislators must oppose 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 or who may face an unsafe home environment.
  - *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.
  - *Support Trans Youth:* Legislators must oppose efforts to ban young trans athletes from participating in athletic activities or ban the use of the bathroom consistent with their gender.
  - *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.
- o Take Affirmative Steps to Confront Racism, Bigotry, and Exploitation: From colonization and slavery, though modern racist and exploitative policies that include regressive taxation, redlining, and voter suppression, the United States has systematically exploited and denied the basic human rights of Black people. And, while Black people have faced the brunt of these injustices, poor white and other marginalized people are harmed too. New Hampshire must help dismantle this

racist and exploitative foundation and prioritize investments in its communities that have been directly harmed and under-resourced by this legacy.

- Support
  - *Drivers Licenses for Undocumented People*: Legislators must allow undocumented Granite Staters to obtain a driver’s license and state identification, which are an essential part of navigating everyday life.
  - *Transparency around Federal Checkpoints*: Legislators must support legislation that requires local law enforcement agencies provide notice to the public of federal 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.
  - *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.
- Oppose
  - *Further Limit Full Picture of U.S. History*: Legislators must 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.
  - *Protect Welcoming Communities*: Legislators must not take away the power of local communities to decide whether they want their local law enforcement to do the job of the federal government in enforcing federal immigration laws.
- o *Eliminate Harmful and Racist Policing and Punishments*
  - o Prioritize Public Safety: Implement harm reduction strategies in response to community issues, including substance use disorders, homelessness, and mental illness, and rein in other abusive police strategies.
  - Support
    - *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.

- *Defelonize the Possession of Drugs*: Legislators must stop saddling thousands of people -- disproportionately Black people - - with felony records each year for possession of controlled drugs.
- o Ensure Police Are Accountable: Hold police accountable when they abuse their power, including rolling back police immunity protections, requiring standardized data collection, and strengthening open government laws.
  - Support
    - *Hold Law Enforcement Accountable*: Legislators must end qualified immunity to ensure that victims of police misconduct can access justice and the police who violate civil rights are held accountable.
    - *Racial Profiling Data Collection*: Legislators must analyze all aspects of our current justice system as there is a gross overrepresentation of Black and Brown people currently incarcerated. The only way to study a system is by looking at data. Therefore, it is extremely important we gather facts and data around all points of our justice system – from arrest to sentencing.
- o End Policing for Profit: Focus police on the fair administration of justice, not collecting revenue or meeting quotas, including eliminating civil asset forfeiture, prohibiting expenditures beyond what is explicitly allocated to the department via the budgeting process.
  - Support
    - *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.
- o Eliminate Inhumane and Counterproductive Punishment: Eliminate the inhumane, unnecessary, and expensive incarceration of people in jails and prisons, including by ending parole, repealing mandatory minimum laws, ending cruel and unusual conditions of confinement, and prioritizing non-carceral approaches to public safety, including restorative and transformative justice.

- Support
    - *Parole Reform/Sentencing Reform:* Legislators must move New Hampshire out of its archaic and “punishment only” mindset. Repealing Truth In Sentencing would create a behavioral based incentive for incarcerated individuals to take control of their lives, consciously pursue a rehabilitative pathway, and have the best chance of success upon their reentry to our communities.
  - Oppose
    - *Stop Prison Expansion:* Granite Staters cannot afford the costs of building a new prison nor should we place the economic burden on our community members when data shows a consistent decline in the state’s prison population. It is not only financial irresponsibility to build a new prison, but historically speaking, the construction of new prison facilities always contributes to mass incarceration as a new prison means more cells that must be filled.
- o *Solution 3: Ensure Integrity of the Courts*
- o End Two-Tiered Justice: Ensure that guilt and punishment are determined by facts rather than the wealth of the defendant.
    - Support
      - *Eliminate Wealth-Based Driver’s License Suspensions:* Legislators must eliminate the suspension of driver’s licenses for unpaid court fines and fees. Wealth-based driver’s license suspensions have no public safety justification, place unnecessary hurdles in front of people seeking to support their families, and perpetuate New Hampshire’s two-tiered justice system.
      - *Strengthen Bail Reform:* Legislators must strengthen New Hampshire’s existing bail system to ensure that trained judges make all decisions surrounding bail. This can be accomplished by simply replacing bail commissioners with magistrate judges.
    - Oppose
      - *Don’t Roll Back Reforms to New Hampshire’s Bail System –* Legislators must oppose efforts to revert to a bail system that needlessly incarcerated of 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.