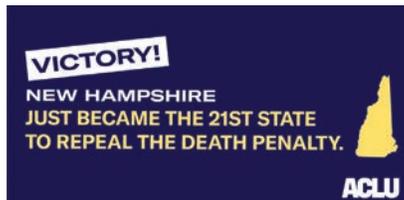


# ACLU NEWS

American Civil Liberties Union of New Hampshire SUMMER 2019



## NH LIVES WITHOUT THE DEATH PENALTY



For over three decades in New Hampshire, there was a rising call to repeal the death penalty. That call had, until recently, gone unanswered. That changed on May 30, 2019, when, after more than twenty years of advocacy, New Hampshire became the 21st state to repeal the death penalty.

Last year, the state legislature failed to override the Governor's veto of death penalty repeal legislation by just two votes. Since then, there had been an election. We entered the new year believing 2019 could, just maybe, be the year that New Hampshire shook off the unwanted distinction of being the only state in New England with the death penalty. Such conviction led us to make repealing the death penalty our number one legislative priority.

This year's success is not a credit to one party, but a recognition that in these partisan and divisive times, there is at least one issue that rises above party. Asking the government to take a life summons within us all our common humanity.

Throughout this legislative session, lawmakers, advocates, and volunteers on both sides of the aisle worked tirelessly to help shepherd House Bill 455 through. The House floor debate prior to the vote on HB455 was one of the most solemn debates legislators and advocates had witnessed. Those who spoke shared family histories, personal grief, and stories on how they came to oppose this archaic practice.

In the initial floor votes, both the state House of Representatives and Senate voted with over 70 percent in favor of repeal. As promised, Governor Chris Sununu again vetoed the legislation, setting up the much anticipated veto-override votes. To override a veto, two-thirds of those present and voting in each chamber must vote to override. In May, the House and then the Senate just barely met that threshold. In the House the margin was a single vote. In the Senate, exactly the 16 votes needed were cast.



This means that every single call made, postcard sent, and conversation with a legislator mattered. This victory belongs to every person who joined in this campaign. Together, we made clear that our communities, our families, and our state do not need the death penalty. We can—and will—live without it.

This message goes beyond New Hampshire. Today, 21 states do not have the death penalty. Four more states have a gubernatorial moratorium on the death penalty. Half of this country has turned the page on this archaic, unjust, and discriminatory practice. With each additional state that joins the ranks of repeal, one message is stated clearly: this country can live without the death penalty.

## ACLU

New Hampshire

18 Low Avenue, Concord  
603-225-3080  
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## DRAWING FAIR DISTRICTS AFTER 2020

**A historic bill that would create an independent redistricting commission is headed to Governor Sununu's desk. If he signs it into law, which could happen either this summer or early fall, it will have a strong impact in ending gerrymandering and ensuring that fair districts are drawn after the 2020 U.S. Census. New Hampshire would join 20 other states who have enacted reforms to curb gerrymandering and have maps drawn independently from the legislature.**

## MESSAGE FROM THE EXECUTIVE DIRECTOR

As the spring season and 2019 legislative session come to a close, we have much to reflect on.

New Hampshire is now the 21st state to abolish the death penalty. It's a tremendous victory that should be shared by us all after decades of tireless work. It's one that says clearly what we want our state to be. We are thankful to each and every person who mobilized to make this happen, whether it was calling a lawmaker, writing emails and postcards, staking lawn signs, and making it an issue in which to take action.

The work we are doing on the Rights For All campaign is already having a national impact. After the campaign's official debut here in New Hampshire, we're already seeing presidential candidates read up on civil rights issues and make big commitments on issues like repealing the Hyde Amendment and protecting reproductive rights, reducing mass incarceration nationwide by 50%, and ensuring a pathway to citizenship for

DREAMers. Now that primary season is in full swing, we'll be continuing these efforts and making the on-the-record responses publicly available.

Our legal team is taking on more cases than ever before: we're in court to talk about fair elections, we're suing for immigrants' rights, and we're demanding police transparency. We're proud to be the ones watching over civil liberties in the Granite State. We have a long history of being unafraid to take these fights to court, and we're continuing to do so every day.

We've accomplished so much, and 2019 is only halfway over. But there's so much more to do. We're confident that with your support, we can make the second half of this year even more successful than the first.



Devon Chaffee  
*Executive Director*

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## PROTECTING CIVIL LIBERTIES IN COURT

It has been an incredibly busy three months for the legal program, with many new and exciting cases.

In April, we saw an important victory for police transparency and accountability. Following a lawsuit filed by the ACLU of NH, the state's Superior Court ruled that the NH Department of Justice must produce a list of over 260 police officers who have engaged in misconduct that reflects negatively on their credibility or trustworthiness, known commonly as the Laurie List.

Actions that might cause an officer to be placed on the list include a deliberate lie during a court case, the falsification of records or evidence, any criminal conduct, and an egregious dereliction of duty. Though the Department of Justice has appealed this decision, this case highlights the fact that when the government keeps information secret—especially when it comes to police behavior and how prosecutors do their jobs—it only creates distrust and suspicion that minimizes the hard work and dedication shown by the overwhelming majority of law enforcement professionals.

Just this month, the ACLU of NH also filed a lawsuit challenging planned surveillance cameras in downtown Manchester. The cameras, which would capture live video of traffic on Elm Street, are illegal because they

violate a state privacy law that specifically disallows cameras that capture a motorists' identifying information, such as their face or license plate.

The surveillance cameras proposed by the City are troubling: driving down Elm Street shouldn't include recording video of your face, license plate, and passengers. New Hampshire is a state that staunchly defends its right to privacy, and this plan is a direct violation of that by needlessly capturing the information of thousands of Granite Staters simply going about their business.

And finally, we continue to litigate our challenge to a law that unconstitutionally restricts the right to vote for students, young people, and those new to the state. The lawsuit was brought on behalf of two Dartmouth College students who will be required to pay for New Hampshire driver's licenses if they vote in the next election. If they don't, they could face penalties.

The law, HB 1264, burdens their right to vote and acts as a "poll tax" by requiring new voters to shift their home state driver's licenses and registrations to New Hampshire—which can add up to hundreds of dollars—solely for exercising their right to vote.



# ADVANCING CIVIL RIGHTS AT THE STATE HOUSE



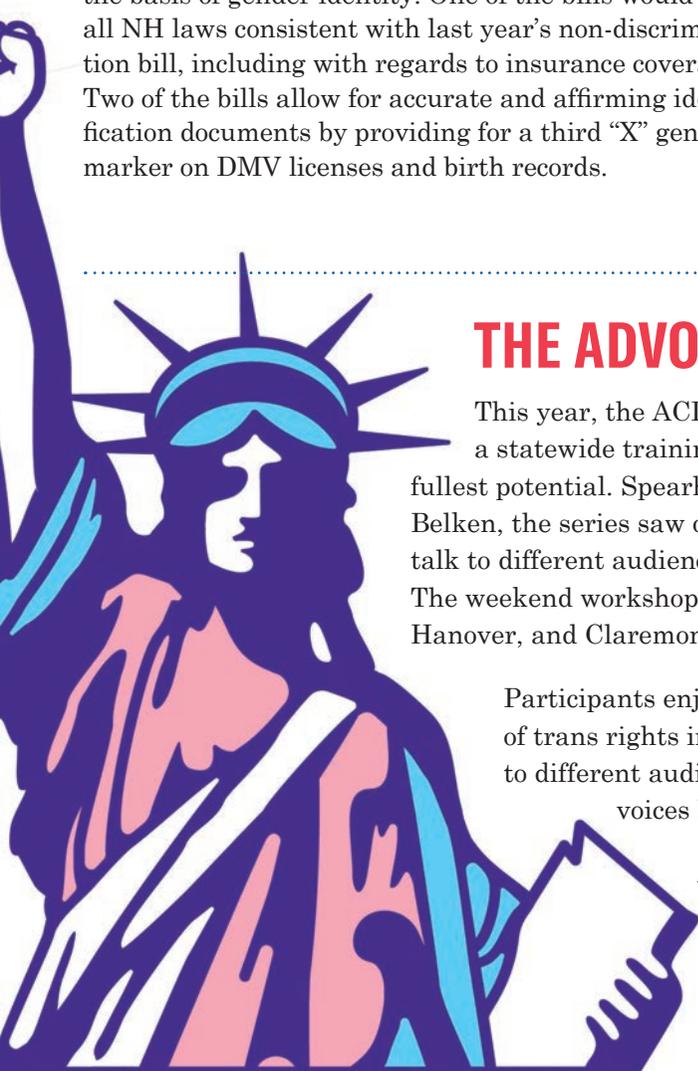
The 2019 legislative session has been busy and productive. Not only did New Hampshire officially repeal the death penalty, but there are a number of civil rights bills that have passed the state Senate and House and are heading to Governor Sununu's desk.

For instance, there is a bill to promote and protect fair and impartial elections, which are vital to our democracy. If enacted, the legislation would create an independent redistricting commission for the first time in NH history. The commission would be charged with drawing maps that are non-partisan and impartial to present to the legislature for its approval. It would be implemented in time for the Commission to be formed before the districts are next redrawn after the 2020 U.S. Census.

There are also several bills that would strengthen transgender lived equality and build on last year's landmark bill that protects Granite Staters from discrimination on the basis of gender identity. One of the bills would make all NH laws consistent with last year's non-discrimination bill, including with regards to insurance coverage. Two of the bills allow for accurate and affirming identification documents by providing for a third "X" gender marker on DMV licenses and birth records.

There is also a bill that would finally provide public schools students with comprehensive non-discrimination protections on the basis of age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, or national origin. This bill was the number one legislative recommendation by the Governor's Advisory Council on Diversity and Inclusion, of which the ACLU of NH is a member. The Council was alarmed to learn last year that NH doesn't already provide such protections, and this bill would fill that gap.

Lastly, there is a bill that would establish fair chance hiring, or what other states call "ban the box," in New Hampshire. One of the hardest challenges that formerly incarcerated people face, by virtue of having a criminal record, is access to employment. This has broad societal impacts as reliable employment is one of the most important steps to reducing recidivism and to increasing successful re-entry. This bill would remove the stigmatized "box" on job applications that asks people whether they have a criminal history and would defer the question until an in-person interview. The goal is to reduce automatic dismissal of checked box applications and enable formerly incarcerated individuals to have their qualifications considered by employers. Thirty-one states have some form of fair chance hiring policy.



## THE ADVOCACY ACADEMY ON GENDER

This year, the ACLU of NH launched its first ever Advocacy Academy on Gender, a statewide training series to empower local civil rights advocates to achieve their fullest potential. Spearheaded by the ACLU of NH's Trans Justice Organizer, Palana Belken, the series saw over 50 civil rights advocates learn how to tell a story of self and talk to different audiences, whether it be informally at a rally or formally to lawmakers. The weekend workshops took place in Somersworth, Concord, Plymouth, Dover, Keene, Hanover, and Claremont.

Participants enjoyed an introduction to New Hampshire politics and the history of trans rights in the state, received training on how to tell a story of self and talk to different audiences, and learned how to contact the right people to make their voices heard.

Additionally, volunteers who graduated from the Academy were recently featured in two radio installments of the popular "Ask a Trans Person Anything" series, first on NHPR's The Exchange and later WNHN's The Attitude with Arnie Arnesen.

# YOU'RE INVITED: THE BILL OF RIGHTS DINNER

This year we are proud to honor three extraordinary women and one remarkable nonprofit for their courage and commitment to civil rights: Eva Castillo, Caroline Casey, Maggie Flaherty, and the NH Coalition to Abolish the Death Penalty. On October 6, the ACLU of New Hampshire will present these fearless leaders with the *Bill of Rights Award* for their contributions defending our constitutional freedoms in the courts and in the legislature.



As Director for the NH Alliance for Immigrants and Refugees, Eva Castillo has been working to protect the rights of immigrants in New Hampshire for more than 30 years. She is the go-to advocate at any time of the day or night for many communities targeted by immigration enforcement. As a recognized leader in the state, Eva serves on the boards of nonprofit and government agencies including vice chair of the NH Governor's Commission on Latino Affairs. Eva has been working with the ACLU of New Hampshire for years but more intensively after we created a roundtable of immigrants' rights advocates in response to the Trump administration's Muslim ban in early 2017.

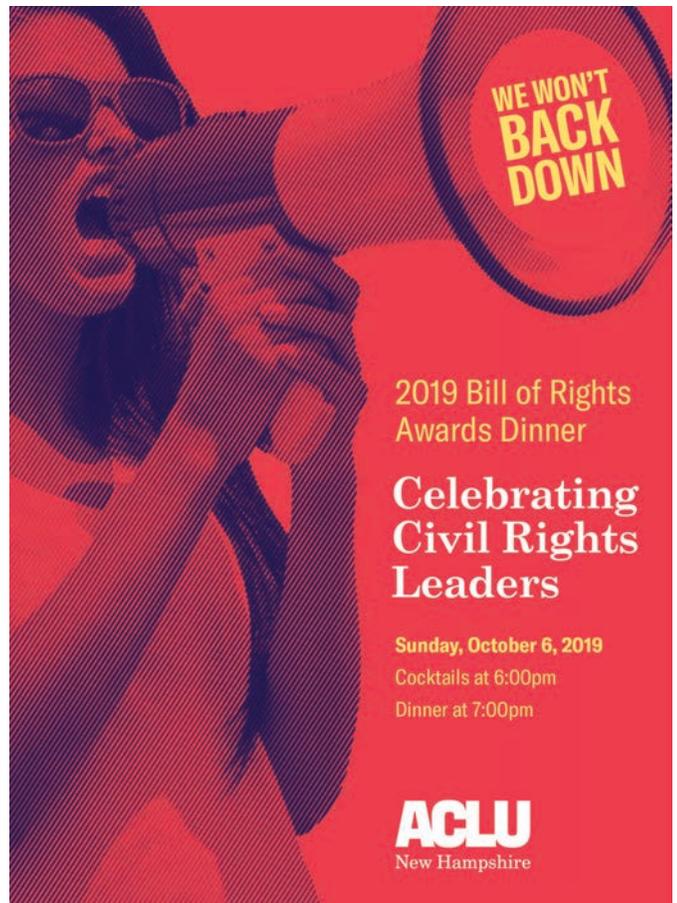


Caroline Casey

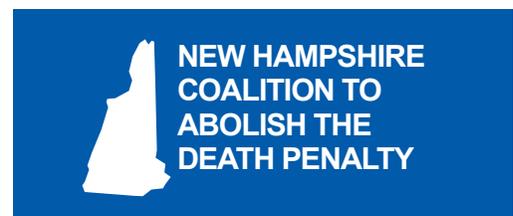


Maggie Flaherty

Earlier this year, college sophomores Caroline Casey and Maggie Flaherty bravely stepped forward to be the plaintiffs in ACLU of New Hampshire's lawsuit against the state's 2018 voter suppression law. Signed by Governor Sununu last year, this



law unconstitutionally restricts the right to vote for students, young people, and those new to the state. Caroline and Maggie are fighting a law that would require college students to pay for New Hampshire driver's licenses when they vote in the next election, the equivalent of a poll tax.



The New Hampshire Coalition to Abolish the Death Penalty Repealing has been the driving force in the movement to repeal the death penalty in New Hampshire since 1998. This tireless group of individuals and organizations first came together as a project of the NH Council of Churches and since then has lead the fight every year to pass a bill repealing this inhumane practice. Thanks to their indefatigable efforts, New Hampshire has become the 21st state to repeal the death penalty.

# FINALLY FREED AFTER 2.5 YEARS

Mahamed Ahmed-Cali walked through the door of the ACLU of New Hampshire office on May 20, 2019. He was wearing sweats, and carried a mesh bag with fabric handles, maybe a foot in length, that held all of his belongings. Though he had technically been in the United States for more than two and a half years, it was his first time stepping foot on American soil without handcuffs.

For all of those months, Mr. Ahmed-Cali, a Somali national who legally presented himself at the border, had been detained by Immigration and Customs Enforcement. First in San Diego, then in Massachusetts, Louisiana, Alabama, Georgia, and finally, New Hampshire. He was even the victim of a botched deportation attempt that made national news, where he and 91 other Somalis were shackled and seated on an airplane for nearly 48 hours without food or water and forced to urinate in plastic bottles.

Though Mr. Ahmed-Cali's case is the most egregious one seen coming through the Granite State, it is by no means the only one. The ACLU of New Hampshire's Immigrants' Rights Project, which launched last July, has already brought dozens of cases and has fought nearly every one successfully.

Now nearing its one-year anniversary, the Project is continuing to pick up steam. Created out of a clear need to help get detained immigrants released on bond, and to provide training for local lawyers to successfully take these types cases, the ACLU of New Hampshire is currently fighting numerous cases in federal court, helping people like Mr. Ahmed-Cali, and creating good law for the future along the way.

Little by little, the ACLU of NH is showing that the nation's immigration issues are right here in the Granite State's backyard—and it's our duty to help.

# RIGHTS FOR ALL TAKES OFF

On March 28, 2019, staff from ACLU national and the ACLU of New Hampshire, as well as advocates and volunteers gathered at the University of New Hampshire in Durham to officially launch the Rights For All campaign. The campaign, a first-ever endeavor for the ACLU, is designed to make civil rights and civil liberties a front-and-center issue in the 2020 presidential primary—as prominent as jobs, healthcare, and the economy.



Since launching the pilot program here in New Hampshire, much has happened. The ACLU of NH organizing team has already trained approximately 150 volunteers on how to directly engage candidates, ask questions, and ensure their answers are recorded. So far, this has led to asking 19 candidates over 100 on-the-record questions—and with candidates visiting New Hampshire every week, these numbers will continue to rise.

Some of the answers have made national news, such as Sen. Kirsten Gillibrand, Congressman Beto O'Rourke, and others committing to supporting a third gender marker on federal documents, or Sen. Cory Booker and Sen. Bernie Sanders committing to reduce mass incarceration by 50 percent, or Gov. Bill Weld and Mayor Pete Buttigieg committing to repeal the Hyde Amendment and enhancing reproductive freedom.

At our speaker series, Civil Liberties and the Presidency, which is held in partnership with the Warren B. Rudman Center at the University of New Hampshire School of Law, we have hosted former Congressman John Delaney, Congresswoman Tulsi Gabbard, Marianne Williamson, former HUD Secretary Julian Castro, former Gov. Bill Weld, and will soon host Congressman Tim Ryan. At these events, candidates discuss the current state of civil rights in America and take questions from the audience on their vision moving forward. More of these candidate events will be announced soon.



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## DEFAULT DETENTION OF IMMIGRANTS MUST STOP

In order to keep someone behind bars in this country, the government must prove why they should be detained: but for immigrants, that is not the case. The ACLU of NH joined a class action lawsuit filed by the ACLU of Massachusetts that challenges the government’s practice of denying due process to immigrants currently being detained, usually due to flawed detention hearings.

Under the U.S. Constitution, the government cannot take away any person’s liberty without showing that it is necessary to do so. During immigration proceedings, however, U.S. Immigration and Customs Enforcement (ICE) routinely holds people in jail for long periods of time without ever being required to make such a showing.

Instead, immigrants are jailed until they can prove that they should not be detained by showing that they are not a danger and not a flight risk. The result of this is mass detention - last month, ICE detention numbers spiked at 52,398 people—an apparent all-time high, and far above the level that Congress authorized earlier this year.