

ACLU NEWS

American Civil Liberties Union of New Hampshire SPRING 2022



REPRODUCTIVE FREEDOM UNDER SIEGE



By now, you have seen the Supreme Court's disturbing draft opinion in the *Dobbs vs. Jackson Women's Health Organization* case that was leaked in early May. Even as a draft, it was gutting. *Roe v. Wade* has been settled law since 1973 but the Supreme Court's conservative majority has clearly decided to overturn this fundamental constitutional right.

The final decision in the *Dobbs* 15-week abortion ban case will be published in the coming weeks, and the impact will be immediate on 36 million people across the country.

According to the Guttmacher Institute, 26 states will or are likely to ban abortion when the Court overturns *Roe*. By comparison, 11 measures protecting abortion access have passed in seven states this year.

The Court's ruling will result in a flurry of litigation at the state level. It will also mean that the fight for reproductive freedom will be state by state.

New Hampshire has had a long and proud tradition of preventing government from controlling private healthcare decisions, that is, until last year when self-described pro-choice Governor Sununu approved a state budget that included a provision prohibiting abortions after 24 weeks. This 2021 legislation also included a mandatory ultrasound requirement, criminal penalties for doctors who violate it, and provides no exceptions for people who became pregnant as a result of rape or incest or who have a fatal fetal anomaly.

But according to a Granite State poll, vocal opposition to this law grew by 10 percentage points in a month, persuading the governor to retreat from his position and publicly support a bill this session to remove the mandatory ultrasound requirement and provide exceptions for fetal anomalies. That bill, HB 1609, passed both chambers and is headed to the governor for his signature.

Make no mistake, New Hampshire's 2021 ban is just the first phase in the playbook of anti-abortion activists. States with more severe prohibitions than New Hampshire's began with 20- and 24-week bans, mandatory ultrasound mandates, restrictions on public funding, and parental notification. Of the four bills defeated this legislative session, one would have banned abortion at six weeks and another would have given anyone who claims paternity the power to seek a court injunction prohibiting a pregnant person from having an abortion.

The ACLU of NH is working with our coalition partners—Planned Parenthood of Northern New England, the Equality Health Center, the Loving Health Center, and the Reproductive Freedom Fund of NH—to fight these extreme restrictions at the State House and to overturn the 24-week ban. We're also working together to renew the funding contracts to family planning providers that were canceled by the Executive Council for two consecutive years. Be assured, that the ACLU of NH will not stop working until full access to abortion care is available to all Granite Staters.

Your voice matters now more than ever. With *Roe* under threat, we urge you to support local candidates who support reproductive freedom in the upcoming mid term elections.

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The American Civil Liberties Union of New Hampshire (ACLU-NH) is a nonpartisan, non-profit organization that protects, defends, and extends the civil rights of people in New Hampshire at the state house, in the courtroom, and in our communities and to fight discrimination against targeted and vulnerable populations. The ACLU-NH was founded in 1968 and is one of 53 affiliates of the ACLU Nationwide.

The ACLU-NH engages with the community through:

Litigation, representing those whose rights have been violated;

Legislative advocacy, challenging laws that infringe on freedom and supporting laws that expand our civil liberties;

Education campaigns to ensure residents know their rights;

Grassroots organizing, mobilizing people to be advocates for themselves and others.

COMINGS AND GOINGS



Executive Director Devon Chaffee was delighted to welcome Jason Green this April to our ACLU affiliate as our first Deputy Director. With nearly two decades of human resources experience, Jason has extensive experience in building diverse teams, creating a culture of belonging, and implementing new organizational systems. He served on the board of the ACLU of Arizona, founded an organization centering human rights (UGIMA—United Gay Informed Men of African American Descent), and was the principal organizer for the Arizona Black AIDS Task Force.



This January, Dr. Dottie Morris was elected chair of the board of directors of the ACLU of New Hampshire. Dr. Morris is the Chief Officer of Diversity and Multiculturalism at Keene State College and a Carsey Fellow for NH Listens. She succeeds Leonard “Skip” Small M.D. as board chair, who served from 2019-2022. On the affiliate’s five year plan and staff expansion, Dr. Morris said, “I look forward to leading the state’s largest nonpartisan civil rights organization into the next phase of its plan to bringing equality and justice for all Granite State residents.”



Benjamin Siracusa Hillman joined the board in January. His history with the ACLU began in 2007 when he was a summer associate at the national ACLU office, where he worked in the Speech, Privacy, and Technology Project. Benjamin is a shareholder/director at Shaheen & Gordon P.A. and former chair of the board of directors at Planned Parenthood of NNE. “We are thrilled to have someone with Benjamin’s experience, expertise and dedication join our board,” said Executive Director Devon Chaffee.



When Bob Stein joined the board in 1975, New Hampshire was in social and political turmoil. In his many capacities as a board member, Bob devoted the next 46 years to building the affiliate into the state’s leading civil rights organization. During his early years, the ACLU of NH won a major Supreme Court free speech case (*Maynard v. Wooley*), helped to secure passage of same day voter registration, and secured recognition of gay student college organizations. On his departure this January, Bob said that his membership was one of his proudest achievements.



Stephen Borofsky’s four decades of distinguished volunteer service began when he sued the Nashua School Board in 1979 for removing Ms. Magazine from the school’s library on First Amendment grounds. He continued to serve on ACLU of NH’s Legal Panel until 1991 when he was elected to its board. During his chairmanship (2016-2020), the affiliate more than doubled in size and was instrumental in passing transformational legislation and bringing ground-breaking lawsuits. Steve left the affiliate “gratified that it is having the kind of legal impact” that he always envisioned for the organization.

IN MEMORIAM



For more than 30 years, Claire Ebel fearlessly and passionately defended the civil liberties of every Granite Stater, something we are immensely thankful for each day. We recognize the many victories and challenges that the ACLU of NH championed during Claire’s time as Executive Director as crucial pieces, both legally and philosophically, of where we are now. A true civil libertarian from childhood, Claire’s legacy will ensure that New Hampshire remains at the forefront of what it means to be free in 2022 and beyond.



A longtime state representative and friend, Renny Cushing devoted his life to advancing civil liberties, reforming our criminal justice system, and ending the death penalty in New Hampshire. We are forever grateful for his decades of work, which have had and will continue to have an immeasurable impact on the civil liberties and rights of Granite Staters. He will be greatly missed.

FIGHTING SCHOOL CURRICULUM CENSORSHIP

In December 2021, the ACLU of NH filed a lawsuit on behalf of two diversity, equity, and inclusion school administrators—Andres Mejia from the Exeter Region Cooperative School District and Christina Kim Philibotte from the Manchester School District—challenging New Hampshire’s public school classroom censorship law. The law, which was contained within last year’s state budget bill (HB2) and signed into law by Governor Sununu, discourages public school teachers from teaching and talking about race, gender, sexual orientation, disability, and gender identity.

In this lawsuit filed by Andres Mejia and Christina Philibotte, we argue that HB2’s vague language unconstitutionally diminishes educators’ voices under the 14th Amendment. The law is so unclear and vague that it fails to provide necessary guidance to educators about what they can and cannot include in their courses, and it invites arbitrary and discriminatory enforcement—up to and including the loss of teaching licenses. “We have dedicated our careers to creating an education community where every student—including Black and Brown students, students of color, students from the LGBTQAI+ community, students with disabilities, and students from other historically marginalized identities—feel like they belong,” said plaintiffs Andres Mejia and Christina Kim Philibotte when this lawsuit was filed. “This law chills the very type of diversity, equity, and inclusion work that is absolutely necessary to ensure that each student is seen, heard, and connected, especially as New Hampshire becomes more diverse. We are proud to join this broad coalition challenging this law.”

This lawsuit includes a broad coalition of organizations and law firms, including the NEA-NH and National Education Association, the ACLU, the ACLU of New



WE'RE SUING

**WE JUST FILED A
FEDERAL LAWSUIT
CHALLENGING
NH'S CLASSROOM
CENSORSHIP BILL**

GLAD LEGAL ADVOCATES & DEFENDERS for the LGBTQ+ Community
DRC DISABILITY RIGHTS CENTER-NH
NEA-NH
ACLU New Hampshire

Hampshire, Disability Rights Center–New Hampshire, GLBTQ Legal Advocates & Defenders, Nixon Peabody LLP, Preti Flaherty Beliveau & Pachios LLP, and Shaheen & Gordon, P.A.

Since last December, the ACLU of NH, with the help of our partners, helped to defeat multiple bills this legislative session that sought to expand classroom censorship. HB 1255 would have expanded New Hampshire’s Cold War-era “teacher loyalty” law to restrict the teaching of “any doctrine or theory promoting a negative account or representation of the founding and history of the United States.” Another bill, HB 1313 proposed expanding banned concepts language to include the state’s public colleges and universities.

Earlier this year, the U.S. District Court of New Hampshire consolidated this lawsuit with one from the American Federation of Teachers, also filed in December 2021. Our legal team will be filing our brief in response to the Attorney General’s motion to dismiss our lawsuit, after which the Court will schedule oral arguments sometime this summer or fall.

In the meantime, we urge voters to support candidates for office who are committed to fighting curriculum censorship in New Hampshire public schools.





MESSAGE FROM THE EXECUTIVE DIRECTOR



Devon Chaffee

The new year brought an unrelenting fight for civil rights: from reproductive freedom, to classroom censorship, to police transparency, to protecting our electoral maps—the very foundation of our democracy.

The draft U.S. Supreme Court decision that would overturn *Roe v. Wade* came as a shock to many—but it's one we had been expecting for months and have been working closely with our local partners to prepare for. Together with abortion clinics, abortion funds, and other advocacy organizations, we are equipped to use our combined firepower to ensure that reproductive freedom remains intact in New Hampshire should *Roe* ultimately fall.

To enact fair maps, we argued at the New Hampshire Supreme Court, beefed up our organizing power with the help of our incredible volunteers, and continue to hold politicians accountable every step of the way online and in the media. When we made public our independent analysis of nearly all proposed draft maps, the results

showed that every single map is gerrymandered to give the majority party in power (Republican) an unfair advantage for this next decade.

Our legal team has also been in state court arguing for police transparency and accountability in a number of cases. Recently, the New Hampshire Supreme Court agreed with us and ruled for the release of an internal police report investigating allegations of misconduct.

In sad news, we mourn the loss of Claire Ebel, who was Executive Director of the ACLU of NH for more than 30 years. The many victories and challenges that the ACLU of NH championed during her time leading our organization are crucial pieces of where we are now.

With great thanks to your support, the ACLU of NH is ready for the challenges that lie ahead—and we will be fighting for civil liberties every step of the way. We are ready to ensure our rights remain protected in New Hampshire—and expand them wherever possible.