



# NEW HAMPSHIRE CIVIL LIBERTIES

## LEGISLATIVE BATTLES AND VICTORIES

The New Hampshire Civil Liberties Union was very active during the 2014 legislative session protecting and defending civil liberties.

We helped to pass House Bill 1533 which requires a warrant to search cell phones (including incident to arrest). This bill codifies the principle that all New Hampshire citizens have an expectation of privacy to the vast amounts of personal information in their cell phones. The ACLU made similar arguments to the U.S. Supreme Court earlier this year, which were just affirmed by the Court in June.

The NHCLU helped to pass House Bill 1407 which prohibits employers from asking employees for their personal social media IDs and passwords. In passing this bill, New Hampshire joins a number of states in protecting employees' reasonable expectation of privacy to the information privately stored on social media accounts.

We led the effort to defeat the license plate scanning bill that would have legalized law enforcement use of license plate scanners in New Hampshire. The bill would have allowed law enforcement to collect and store a treasure trove of detailed data about the travels of innocent New Hampshire citizens.

We successfully supported a bill raising the age of a minority in New Hampshire from 17 to 18, so that children are treated like children in the criminal justice system. The NHCLU was part of a coalition that advanced this bill, ensuring that juveniles have access to the services they need.

House Bill 1624 also ensures that juveniles have access to quality representation and are not coerced into waiving the right to counsel.

After aggressive advocacy by the NHCLU, the legislature also passed a bill that will allow inmates to acquire earned-time credit by participating in educational, vocational, and mental health programming. This bill is a significant step forward, as New Hampshire's status as a truth-in-sentencing state has for years prevented efforts to enact earned-time provisions that would reduce the state's over-incarceration problem.

The NHCLU succeeded in passing the New Hampshire Paycheck Fairness Act, which works to combat paycheck inequality by bringing the state's pay equity law in line with federal law and by prohibiting employers from penalizing employees for discussing wages. This is a particularly important victory given that the U.S. Senate failed to pass the federal paycheck fairness bill earlier this year. We also helped defeat HB 1388 that threatened to subject students to coercive prayer in public schools.

We successfully opposed a bill that would have required onerous and unnecessary requirements for abortion facilities.

A major disappointment this year was falling one vote short to repeal the death penalty in New Hampshire. We will continue the fight to abolish this inhumane law.



# DEFENDING CIVIL LIBERTIES IN THE COURTS

The first half of this year has been filled with significant victories defending the civil liberties of New Hampshire citizens who have been the victims of government abuse and overreach.

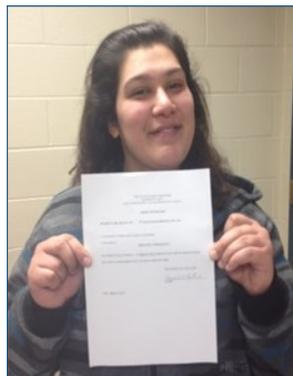
In an important victory for free speech rights, the New Hampshire Supreme Court held in *Montenegro v. New Hampshire Division of Motor Vehicles* that the DMV regulation providing the basis for the denial of the vanity license plate “COPSLIE” violated the First Amendment. This regulation had allowed vanity plates to be rejected if, according to the DMV, a “reasonable person would find [the plate] offensive to good taste”. This case was argued and briefed by the NHCLU. The Court, adopting NHCLU’s argument,



concluded that the DMV regulation was improperly vague because it was “so loosely constrained that it authorizes or

even encourages arbitrary and discriminatory enforcement.” The DMV’s use of this regulation to deny the anti-government license plate COPSLIE while approving the pro-government license plate “GR8GOVT” was viewpoint discrimination, which is prohibited by U.S. and N.H. constitutions.

The NHCLU secured victories combatting the practice of jailing poor people who are unable to pay criminal fines. This practice creates a modern day debtors’ prison, imposes devastating human costs and wastes taxpayer money. It also undermines our criminal justice system and because it is racially skewed, it creates a two-tiered system of justice. In March we obtained a writ of habeas corpus from the Hillsborough South Superior Court releasing Alejandra Corro (*above*) because she did not have the money to pay a fine.



One month earlier, the NHCLU had to obtain an order from the New Hampshire Supreme Court staying a Circuit Court decision that would have jailed a poor defendant within hours for failing to pay certain fees.



This past February, the NHCLU successfully challenged a Rochester anti-panhandling ordinance that violated the free speech rights of the poor and homeless. The ordinance was intended to prevent so-called aggressive begging, but in fact prohibited a large amount of peaceful speech on sidewalks.

As part of this effort, we represented a homeless woman, Chrystal Ryan (*below*) who received a \$124 citation under the city’s ordinance for quietly standing on a sidewalk holding a sign asking for help. The city of Rochester selectively enforced the ordinance by targeting the poor and homeless but allowed the Rochester Fire Department to solicit funds from motorists in violation of the ordinance without any repercussions.



# CELEBRATING CIVIL RIGHTS CHAMPIONS

This year, we are privileged to recognize multiple honorees for their exceptional work, unwavering commitment, and overall excellence defending our constitutional freedoms: *Nixon Peabody* for its support of free speech, and *The Voting Rights Legal Team of Shaheen and Gordon PA and attorney Alan Cronheim, Esq. of Sisti Law Offices* for their defense of voting rights. We are proud to be conferring the *Bill of Rights Award* to these honorees, who join a long and distinguished list of individuals, organizations, and groups we have honored over the last 28 years for their extraordinary efforts protecting and advancing civil liberties in New Hampshire.

The *Bill of Rights Awards* dinner is October 5. This year, we'll be celebrating at the Puritan Conference Center in Manchester. The keynote speaker of our annual benefit event is Dale Ho, Director of ACLU's Voting Rights Project.

Nixon Peabody is receiving the *Bill of Rights Award* for its exceptional work defending free speech rights in the case of *David Montenegro v. New Hampshire DMV*. Nixon Peabody LLP



attorneys David Vicinanzo (*left*) and Anthony Galdieri (*bottom*), in cooperation with the NHCLU, challenged before the state Supreme Court the DMV's improper denial of the vanity license

plate COPSLIE. Attorneys Galdieri and Vicinanzo argued successfully that the DMV regulation that allowed vanity plates to be rejected if a "reasonable person would find [the plate] offensive to good taste" was unconstitutionally vague in violation of the First Amendment.



The law firm of Shaheen & Gordon, PA and attorney Alan Cronheim (below) are receiving the *Bill of Rights Award* for their commitment and outstanding work in NHCLU's pending voting rights case.



Cooperating attorneys William Christie (*left*), Benjamin Siracusa Hillman (*below*), and Jessica Bellemore (*not pictured*) of Shaheen & Gordon PA as well as attorney Cronheim have challenged the

constitutionality of a 2012 law that added confusing language to the state's voter registration form. This law attempts to

restrict the voting rights of a segment of New Hampshire citizens—college students in particular—who live in New Hampshire, pay money to the state, and engage in community and social activities here. In March, attorney Alan Cronheim and Shaheen & Gordon PA, in conjunction with the NHCLU, filed a motion asking the Superior Court to permanently prevent the law's enforcement.



## SAVE THE DATE

*The Bill of Rights Awards  
Benefit Dinner*

SUNDAY, OCTOBER 5, 2014



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## Why We Challenged New Hampshire's Education Tax Credit Program

by Gilles Bissonnette, NHCLU Staff Attorney

*Excerpted from the Union Leader April 22, 2014 Editorial*

In April of this year, the New Hampshire Supreme Court heard arguments challenging the Education Tax Credit Program, a 2012 law that permits taxpayer dollars to fund religious schools. In an editorial in the New Hampshire *Union Leader* newspaper, Louisiana Governor Bobby Jindal attacked the lawsuit and the ACLU for bringing it. Governor Jindal ignores the New Hampshire Constitution and our state's traditions.

One of the clearest principles in our state constitution is that taxpayer dollars cannot be used to fund religious education. This principle memorializes New Hampshire's commitment to ensuring the freedom of all citizens to live in a state where the government is not providing public resources to religion. New Hampshire is not Louisiana. Our state constitution is different and even provides freedoms exceeding those that exist under the U.S. Constitution.

The Education Tax Credit Program undermines these sacred constitutional principles. Under this complex government subsidy program, businesses would receive an 85% tax credit for donations made to K-12 scholarship organizations, which pays for tuition at religious and other private schools. In short, rather than paying their taxes to the state, businesses would instead be able to direct money owed to the state toward religious education.

In response, nine New Hampshire parents and taxpayers—represented by the NHCLU, the ACLU, and Americans United for Separation of Church and State—challenged the program in court in January 2013. A few months later, the N.H. Strafford County Superior Court struck down part of the program, ruling that the state is expressly forbidden from funding religious education under our state constitution.

Ignoring the text of our constitution, Governor Jindal instead resorts to political rhetoric, claiming that the ACLU and those who support the lawsuit do not "want to allow parents to make their own choices about the best place to educate their children." This is both hyperbolic and factually wrong. Of course, parents have the right to choose to send their children to private, religious schools. In fact, the ACLU has zealously protected parents' right to exercise their religious liberty to educate their children as they see fit.

But this case is not about school choice; it is about whether the state may use taxpayer dollars to subsidize religious education. Under the New Hampshire Constitution, this is prohibited.