



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of NORTH CAROLINA

# 2012 Legislative Report Card

Ratings are based on legislation proposed in the North Carolina General Assembly during the 2011-2012 legislative session.

The brighter Lady Liberty's torch shines, the better a lawmaker's position on civil liberties.



= Supported the ACLU-NC's position



= Opposed the ACLU-NC's position

### ACLU-NC Supported Legislation:

**HB 32 Electoral Freedom Act:** *Would have expanded ballot access for political third parties.*

**Final Disposition of HB 32:** Passed the House, but was defeated in the Senate.

North Carolina law currently states that in order for a political party's candidates to appear on the ballot, the party must gather signatures from 2% of registered and qualified voters or the party's candidate for governor must have earned 2% of the vote in the last election. HB 32 would have changed both requirements to 0.25%, making it easier for alternative parties like the Green or Libertarian Party to have candidates listed on the ballot. The bill would also have reduced the burden on candidates wishing to run as unaffiliated with a party. North Carolina has one of the most restrictive regulations on third party ballot access without legitimate justification for those restrictions.

### ACLU-NC Opposed Legislation:

**SB 910 Sale of a Minor:** *Included amendment to expand instances in which police could collect DNA upon arrest without a warrant.*

**Final Disposition of SB 910:** The House voted to approve the bill as amended, the Senate did not concur and the amendment was removed before final passage of SB 910 by both chambers.

The ACLU-NC had no position on the original Senate bill which amended the crime of selling a minor. However, in the House Judiciary B Subcommittee, the bill was amended to add a section that required police to take DNA from suspects upon arrest and without a warrant for 15 additional felonies, including many non-violent felonies that would not have involved DNA evidence. The change would have meant that thousands of additional North Carolinians would have their DNA collected on arrest, prior to conviction and without a warrant.

**SB 416 Amend Death Penalty Procedure:** *Weakens the Racial Justice Act by no longer allowing death row defendants to appeal their sentences with statewide statistical evidence.*

**Final Disposition of SB 416:** Both the House and Senate passed this bill and voted to override the Governor's veto of SB 416. SB 416 became law on July 2.

This bill changes the 2009 Racial Justice Act (RJA) so that a capital defendant wishing to make an RJA claim cannot use statewide statistics as allowed under the 2009 version and must present evidence beyond statistics to make an RJA claim. The bill also bars evidence of bias based on the race of the victim. This means that if the defendant cannot produce additional evidence, a court must ignore compelling statistical evidence of bias in the capital punishment system.

**SB 514 Defense of Marriage:** *Placed a constitutional amendment on the May 8 primary ballot to make marriage between a man and woman “the only domestic legal union” recognized in the state.*

**Final disposition of SB 514:** Both the House and Senate passed SB 514 with the three-fifths majority to put the amendment on the ballot. The ballot measure was passed by the voters on May 8, 2012.

This legislation authorized putting a constitutional amendment on the May 8 primary ballot that amends the North Carolina Constitution to include a provision stating “marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this state.”

**SB 9 No Discriminatory Purpose in Death Penalty:** *Would have repealed the Racial Justice Act.*

**Final disposition of the bill:** Both the House and Senate passed the bill in 2011. The Governor vetoed the bill and the Senate voted to override her veto, but the House, unable to muster the votes to override, never brought SB 9 up for an override vote.

This bill would have repealed the 2009 Racial Justice Act (RJA) by eliminating the process by which a capital defendant could make a claim that he or she was tried capitally or sentenced to death because of racial bias that was established by the RJA and preventing
























































































defendants from entering any statistical evidence of bias in the system or in their specific case.

**HB 673 Street Gang Nuisance Abatement:** *Allowed a civil court, based on the allegation of gang membership by any person or law enforcement officer, to restrict individuals’ free association.*

**Final disposition of the bill:** Passed by the House in 2011 and the Senate in 2012. The Governor signed the law and it becomes effective on October 1, 2012. (The ACLU-NC only took a position publicly opposing this bill during the 2012 session.) As passed, this bill allows any person or law enforcement officer to allege in civil court that a person associates with a gang that has engaged in criminal street gang activity. Because the allegations are made in civil court, the accused would have no right to an attorney and the standard of proof is lower than the “beyond a reasonable doubt” standard required in criminal court. If a court finds that the defendant “regularly associates with others to engage in street gang activity,” even without finding that the defendant has committed “criminal street gang activity” him or herself, the court may impose any “reasonable requirements” on the defendant that the court believes may prevent the defendant or the “gang from engaging in future criminal street gang activity.” In other states with similar laws in place, defendants have been prevented from talking to certain people, including family members, going to certain parts of cities, wearing certain colors or clothes, prevented from living in certain places or with certain people, including family, and curfews have been imposed, all without ever charging a person criminally or proving beyond a reasonable doubt that they are a gang member or that they have committed a crime.

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (SB 416, Override)	LGBT Rights (SB 514)
Adams, Alma	D	58	⚡	⚡	🔥🔥	🔥
Alexander, Kelly	D	107	⚡	⚡	🔥🔥	🔥
Alexander, Martha	D	106	🔥	⚡	🔥🔥	🔥
Avila, Marilyn	R	40	⚡	⚡	⚡⚡	⚡
Barnhart, Jeff (resigned 9/30/11)	R	82	⚡	N/A	N/A	⚡
Bell, Larry	D	21	🔥	⚡	🔥🔥	🔥
Blackwell, Hugh	R	86	🔥	⚡	⚡⚡	⚡

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (2 votes on SB 416)	LGBT Rights (SB 514)
Blust, John	R	62				
Boles, James	R	52				
Bordsen, Alice	D	63				
Bradley, Glen	R	49		No vote		No vote
Brandon, Marcus	D	60				
Brawley, William	R	103				
Brisson, William	D	22				
Brown, Larry	R	73				
Brown, Rayne	R	81				
Brubaker, Harold	R	78			Absent/ 	
Bryant, Angela	D	7				
Burr, Justin	R	67				
Carney, Becky	D	102				
Cleveland, George	R	14				
Collins, Jeff	R	25				
Cook, Bill	R	6				
Cotham, Tricia	D	100				
Crawford, James	D	32				
Current, William	R	109				
Daughtry, Leo	R	26				
Dixon, Jimmy	R	4				
Dockham, Jerry	R	80				
Dollar, Nelson	R	36				

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (SB 416, Override)	LGBT Rights (SB 514)
Earle, Beverly	D	101				
Faircloth, John	R	21				
Faison, Bill	D	50				
Farmer-Butterfield, Jean	D	24				
Fisher, Susan	D	114				
Floyd, Elmer	D	43				
Folwell, Dale	R	74	No vote			
Frye, Phillip	R	84				
Gill, Rosa	D	33				
Gillespie, Mitch	R	85				
Glazier, Rick	D	45				
Goodman, Ken	D	66				
Graham, Charles	D	47				
Guice, David (Resigned 1/1/12)	R	113		N/A	N/A	
Hackney, Joe	D	54				
Hager, Mike	R	112				
Haire, Phillip	D	119				
Hall, Larry	D	29				
Hamilton, Susi	D	18				
Harrison, Pricey	D	57				
Hastings, Kelly	R	110				
Hill, Dewey	D	20		No vote		
Hilton, Mark	R	96		Absent		

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (SB 416, Override)	LGBT Rights (SB 514)
Hollo, Mark	R	88	🚫	🚫	🚫🚫	🚫
Holloway, Bryan	R	91	🚫	🚫	🚫🚫	🚫
Horn, Craig	R	68	🔥	🚫	🚫🚫	Absent
Howard, Julia	R	79	🔥	🚫	🚫🚫	🚫
Hurley, Pat	R	70	🚫	🚫	🚫🚫	🚫
Iler, Frank	R	17	🚫	🚫	🚫🚫	🚫
Ingle, Dan	R	64	🚫	🚫	🚫🚫	🚫
Insko, Verla	D	56	🔥	🚫	🔥🔥	🔥
Jackson, Darren	D	39	🚫	🚫	🔥🔥	🔥
Jeffus, Maggie	D	59	🔥	🚫	🔥🔥	🔥
Johnson, Linda	R	83	🚫	🚫	🚫🚫	🚫
Jones, Bert	R	65	🔥	🚫	🚫🚫	🚫
Jordan, Jonathan	R	93	🔥	🚫	🚫🚫	🚫
Justice, Carolyn	R	16	🔥	🚫	🚫🚫	🚫
Keever, Patsy	D	115	🔥	🚫	🔥🔥	🔥
Killian, Ric	R	105	🔥	🚫	🚫🚫	🚫
Langdon, James	R	28	🚫	🚫	🚫🚫	🚫
LaRoque, Stephen	R	10	🔥	🚫	🚫🚫	🚫
Lewis, David	R	53	🔥	🚫	🚫🚫	🚫
Lucas, Marvin	D	42	🚫	🚫	🔥🔥	🔥
Luebke, Paul	D	30	🔥	🚫	🔥🔥	🔥
Martin, Grier	D	34	🔥	🚫	🔥🔥	🔥
McComas, Daniel	R	19	🚫	Absent	🚫🚫	🚫

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (SB 416, Override)	LGBT Rights (SB 514)
McCormick, Darrell	R	92	🚫	🚫	🚫🚫	🚫
McElraft, Pat	R	13	🚫	🚫	🚫🚫	🚫
McGee, Bill	R	75	🚫	🚫	🚫🚫	🚫
McGrady, Chuck	R	117	🔥	🚫	🚫🚫	No vote
McGuirt, Frank	D	69	🔥	🚫	🔥🔥	🚫
McLawhorn, Marion	D	9	🔥	🚫	🔥🔥	🔥
Michaux, Henry “Mickey”	D	31	🔥	🚫	🔥🔥	🔥
Mills, Grey	R	95	🚫	🚫	🚫🚫	🚫
Mobley, Annie	D	5	🔥	🚫	🔥🔥	🔥
Moffitt, Tim	R	116	🔥	🚫	🚫🚫	🚫
Moore, Rodney	D	99	🔥	🚫	🔥🔥	🔥
Moore, Tim	R	111	🔥	🚫	🚫🚫	🚫
Murry, Tom	R	41	🔥	🚫	🚫🚫	🚫
Owens, Bill	D	1	🚫	🚫	🚫🚫	🚫
Parfitt, Diane	D	44	🔥	🚫	🔥🔥	🔥
Parmon, Earline	D	72	🚫	🚫	🔥🔥	🔥
Pierce, Garland	D	48	🚫	🚫	🔥🔥	🚫
Pittman, Larry (Appointed 10/10/11)	R	82	N/A	🚫	🚫🚫	N/A
Pridgen, G.L.	R	46	🔥	🚫	🚫🚫	🚫
Randleman, Shirley	R	94	🚫	🚫	🚫🚫	🚫
Rapp, Ray	D	118	🔥	🚫	🔥🔥	🔥
Rhyne, Johnathan (Resigned 8/15/2011)	R	97	🚫	N/A	N/A	N/A
Ross, Deborah	D	38	🔥	🚫	🔥🔥	🔥

House Representative	Party	District	Elections (HB 32)	Privacy (SB 910)	Racial Justice (SB 416, Override)	LGBT Rights (SB 514)
Sager, Efton	R	11	🗳️	🗳️	🗳️🗳️	🗳️
Saine, Jason (Appointed 8/24/11)	R	97	N/A	🗳️	🗳️🗳️	🗳️
Samuelson, Ruth	R	104	🔥	🗳️	🗳️🗳️	🗳️
Sanderson, Norman	R	3	🗳️	🗳️	🗳️🗳️	🗳️
Setzer, Mitchell	R	89	🔥	🗳️	🗳️🗳️	🗳️
Shepard, Phil	R	15	🔥	🗳️	🗳️🗳️	🗳️
Spear, Tim	D	2	🗳️	Absent	🗳️🗳️	🗳️
Stam, Paul “Skip”	R	37	🔥	🗳️	🗳️🗳️	🗳️
Starnes, Edgar	R	87	🗳️	🗳️	🗳️🗳️	🗳️
Steen, Fred II	R	76	🗳️	🗳️	🗳️🗳️	🗳️
Stevens, Sarah	R	90	🗳️	🗳️	🗳️🗳️	🗳️
Stone, Mike	R	51	🔥	🗳️	🗳️🗳️	🗳️
Tillis, Thom (It is customary for the Speaker of the House not to vote except to break a tie.)	R	98	No vote	No vote	🗳️🗳️	🗳️
Tolson, Joe	D	23	🗳️	🗳️	🔥🔥	🔥
Torbett, John	R	108	🔥	🗳️	🗳️🗳️	🗳️
Wainwright, William	D	12	🔥	Absent	🔥🔥	🔥
Walend, Trudi (Appointed 1/4/12)	R	113	N/A	🗳️	🗳️🗳️	N/A
Warren, Edith	D	8	🔥	🗳️	🔥🔥	🔥
Warren, Harry	R	77	🔥	🗳️	🗳️🗳️	🗳️
Weiss, Jennifer	D	35	🔥	🗳️	🔥🔥	🔥
West, Roger	R	120	🔥	🗳️	🗳️🗳️	🗳️
Wilkins, W.A. “Winkie”	D	55	Absent	🗳️	🔥🔥	🔥
Womble, Larry	D	71	🔥	Absent	🔥🔥	🔥
Wray, Michael	D	27	🗳️	🗳️	🔥🔥	🔥

Senator	Party	District	Elections (HB 32)	Racial Justice (2 votes on SB 416 & 1 on SB 9)	LGBT (SB 514)	First Amendment (HB 673)
Allran, Austin	R	42	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Apodaca, Tom	R	48	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Atwater, Bob	D	18	Absent	🔥, Absent, 🔥	🔥	🗳️
Berger, Doug	D	7	🗳️	🔥🔥🔥	🔥	🗳️
Berger, Phil	R	26	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Bingham, Stan	R	3	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Blake, Harris	R	22	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Blue, Dan	D	14	🗳️	🔥🔥🔥	🔥	Absent
Brock, Andrew	R	34	🔥	🗳️🗳️🗳️	🗳️	🗳️
Brown, Harry	R	6	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Brunstetter, Peter	R	31	Absent	🗳️🗳️🗳️	🗳️	🗳️
Carney, Chris (Appointed 12/8/12)	R	41	🗳️	🗳️🗳️🗳️	N/A	🗳️
Clary, Debbie (Resigned 1/10/12)	R	46	N/A	N/A, N/A, 🗳️	🗳️	N/A
Clodfelter, Daniel	D	37	Absent	🔥, Absent, 🔥	🔥	🗳️
Daniel, Warren	R	44	🔥	🗳️🗳️🗳️	🗳️	🗳️
Dannelly, Charlie	D	8	Absent	🔥, Absent, 🔥	🔥	🗳️
Davis, Jim	R	50	🗳️	🗳️🗳️🗳️	🗳️	🗳️
East, Don	R	30	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Forrester, James (Deceased 10/31/11)	R	41	N/A	N/A	🗳️	N/A
Garrou, Linda	D	32	Absent	Absent, Absent, 🔥	🔥	🗳️
Goolsby, Thom	R	9	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Graham, Malcolm	D	40	No vote	🔥🔥🔥	🔥	🗳️
Gunn, Rick	R	24	🗳️	🗳️🗳️🗳️	🗳️	🗳️



Senator	Party	District	Elections (HB 32)	Racial Justice (2 votes on SB 416 & 1 on SB 9)	LGBT (SB 514)	First Amendment (HB 673)
Harrington, Kathy	R	43	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Hartsell, Fletcher	R	6	Absent	🗳️🗳️🗳️	Absent	🗳️
Hise, Ralph	R	47	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Hunt, Neal	R	15	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Jackson, Brent	R	10	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Jenkins, Clark	D	3	Absent	🔥, Absent, 🔥	🔥	🗳️
Jones, Ed	D	4	Absent	🔥🔥🔥	🔥	🗳️
Kinnaird, Eleanor	D	23	🔥	🔥🔥🔥	🔥	🗳️
Mansfield, Eric	D	21	Absent	🔥, Absent, 🔥	Absent	🗳️
McKissick, Floyd	D	20	🗳️	🔥🔥🔥	🔥	🗳️
Meredith, Wesley	R	19	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Nesbitt, Martin	D	49	🗳️	🔥🔥🔥	🔥	🗳️
Newton, E.S. "Buck"	R	11	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Pate, Louis	R	5	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Preston, Jean	R	2	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Purcell, William	D	25	🗳️	🔥🔥🔥	🔥	🗳️
Rabon, Bill	R	8	🗳️	🗳️🗳️🗳️	🗳️	🗳️
Robinson, Gladys	D	28	Absent	🔥 Absent, 🔥	🔥	🗳️
Rouzer, David	R	12	🔥	🗳️🗳️🗳️	🗳️	🗳️
Rucho, Bob	R	39	🗳️	Absent, 🗳️🗳️	🗳️	🗳️
Soucek, Dan	R	45	🔥	🗳️🗳️🗳️	🗳️	🗳️
Stein, Josh	D	16	🗳️	🔥🔥🔥	🔥	🗳️
Stevens, Richard	R	17	🗳️	🗳️🗳️🗳️	🗳️	🗳️

Senator	Party	District	Elections (HB 32)	Racial Justice (2 votes on SB 416 & 1 on SB 9)	LGBT (SB 514)	First Amendment (HB 673)
Tillman, Jerry	R	29	⚣	⚣⚣⚣	⚣	⚣
Tucker, Tommy	R	35	⚣	⚣⚣⚣	⚣	⚣
Vaughan, Don	D	27	⚣	🔥🔥🔥	🔥	⚣
Walters, Michael	D	13	Absent	🔥, Absent, 🔥	Absent	⚣
Westmoreland, Wes (Appointed 1/23/12)	R	46	⚣	⚣⚣ N/A	N/A	⚣
White, Stan (Appointed 1/25/11)	D	1	⚣	🔥🔥🔥	Absent	⚣



**The ACLU of North Carolina** is a nonprofit, nonpartisan organization dedicated to defending and expanding the individual rights and freedoms found in the U.S. and North Carolina Constitutions and related federal and state civil rights laws.

With more than 11,000 members and supporters throughout the state and an office located in Raleigh, the organization achieves its mission through advocacy, public education, community outreach, and when necessary, litigation. Visit [acluofnc.org](http://acluofnc.org) for more information.