

# Liberty

ACLU OF NORTH CAROLINA NEWSLETTER SUMMER 2022

WE THE  
PEOPLE  
DARE  
TO CREATE  
A MORE  
PERFECT  
UNION



Nicole McCann

## Bracing for **Change and Challenges**

**A**bortion access faces threats we haven't seen in 49 years, since *Roe v. Wade* was decided in 1973. The ACLU of North Carolina continues to fight for abortion rights at the state level as it becomes increasingly clear that *Roe* will be overturned soon. But we have been in this fight since long before *Roe* and we will continue to fight no matter what comes our way.

The loss of federal abortion protections will no doubt have a harrowing impact on reproductive healthcare and abortion access across the country. We have already seen the devastation of nearly

banning abortion in Texas where many people have been forced to flee their state in search of abortion services or denied the care they need entirely. This nightmare may soon be a reality for millions.

North Carolina legislators have already limited abortion access in our state. Patients must wait 72 hours (about 3 days) before they can come in for their appointment, a medically unnecessary requirement that serves only to make it more difficult for them to get an abortion. Providers also can't dispense medication abortion via telehealth, so patients have

to come into a clinic just to take a pill. We are currently challenging some of these restrictions on the grounds that they violate our state constitution.

Despite these limitations, more than 30,000 abortions were performed in North Carolina last year. Further restricting abortion would have wide-reaching impacts for the thousands of people in our state who seek abortion care every year. Additionally, as surrounding states pass and implement restrictions, maintaining abortion access in North Carolina may become important not just for residents, but also

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## From the Executive Director



The past two years have felt overwhelmingly tumultuous. I am not alone in this feeling—the ACLU National Executive Director Anthony Romero summarized the last few years aptly:

From the abrupt shift in how we do our work during a pandemic; to the horrific police killings of Black people; to the efforts to overturn the 2020 election; to uncertainty in the economy—the organization was being pushed to its limits.

2022 has continued to offer limit-pushing challenges. The horror reverberating in our communities, reflected on our screens, and moving through our courts has shaped our strategies to protect our communities. Alongside our strategic adaptability, we have been simultaneously evaluating our internal culture, ensuring that our affiliate thrives and evolves to continuously address the needs of our communities. Despite all these challenges, our formidable team worked in coalition to repel these Draconian attacks wherever possible in service of our communities.

Now, with the imminent, pressing threat to abortion access and reproductive freedoms, we are bracing for the worst and building from within. As we look ahead, we maintain our commitment to defending and advancing civil rights and civil liberties across our issue areas but anticipate prioritizing criminal justice transformation and reproductive justice as we assess the current political, social, and cultural terrain. Through our public education, we aim to enhance public understanding of our criminal-legal system and create an environment conducive to the passage of criminal justice reform bills.

With the strong likelihood that *Roe v. Wade* may be explicitly or effectively overturned by the Supreme Court this term, we continue to litigate our case, *Planned Parenthood South Atlantic v. Moore*, which challenges the multiple statutes that create insurmountable roadblocks to abortion care in North Carolina. We are collaborating closely with partners to bolster access to abortion based on how neighboring states respond to the impending SCOTUS decision. Simultaneously, we are working to sway public opinion on abortion care by training reporters about abortion access in this “new” era that paradoxically regresses the nation’s treatment of pregnant people.

In this issue, in addition to reading about *Roe v. Wade*, key litigation in defense of civil rights, and how we are tackling the inhumanity of North Carolina’s prisons, you will read about our strategic plan, our values, strategies and investments in community engagement, and enhancing our internal infrastructure to deliberately build a culture where all members of the team may thrive.

Chantal Stevens  
 Executive Director  
 ACLU of North Carolina

# The Short Session

In 2021, our Policy and Advocacy team was a frequent presence at the North Carolina General Assembly during the long legislative session.

Through our strategic engagement with our coalition partners and key stakeholders, we strove to mitigate or stop harmful legislation and push forward progressive bills in alignment with our values. We shared cautious celebrations about gubernatorial vetoes of legislation that threatened our civil liberties, including the quality of our education about U.S. history, access to abortion, and the right to protest.

In May, legislators returned to Raleigh for the short session to review and adjust the two-year budget and consider bills that passed the house of origin in the previous year. While drafting

this newsletter, we are continuing our defensive agenda against: HB 560 Public Safety Reform, SB 101 Require Cooperation with ICE 2.0, and HB 247 Standards of Student Conduct.

We are also monitoring bills that were vetoed by Governor Cooper to prevent a successful override, including:

- HB 324 (a so-called anti-Critical Race Theory bill); HB 805 (anti-protest bill); HB 453 (Abortion reason ban); SB 326 Election Day Integrity Act

Republicans don't have enough votes in either the House or Senate to override one of Governor Cooper's vetoes by themselves. If every member of the legislative chamber is present and voting, Republicans need support from

three Democratic House Members and two Senators to meet a three-fifths threshold.

Given the leaked Roe v. Wade SCOTUS deliberations, we are especially concerned about emerging anti-abortion legislation that may draw on or devastatingly exceed bills like HB 453, which would restrict abortion access based on why a person is choosing to terminate a pregnancy, and SB 405, which would criminally punish healthcare providers who provide legal abortion care.



Learn more about these bills and the outcomes of the short session here. ■

## Using Integrated Advocacy to Combat State-Sanctioned Languishing and Death

We have worked to affect systemic change within the legal system, especially within prisons. Our legal team is filing briefs and representing clients in federal appellate cases that implicate the Prison Litigation Reform Act (PLRA), which became law in 1996 and was designed to reduce prison litigation. Its passage coincided with a prison boom after the passage of the 1994 Crime Bill. Rather than address the conditions in prisons that lead to litigation—overpopulation, abuse, and unhealthy living circumstances—the PLRA makes it extremely difficult for incarcerated people to advocate for themselves, even when they have a strong claim, by imposing confusing and unfair procedural barriers.

In support of Charlie Hardin, who was incarcerated at the Tabor Correctional Institution, the legal team joined an amicus brief that challenged a court's ruling that, because of a harmless technical error, Hardin had to refile a complaint and pay a second filing fee. Hardin alleges that prison staff allowed other prisoners to stab him. The legal team also submitted an amicus brief in support of Matthew Griffin, who is visually impaired and was denied medical accommodation by



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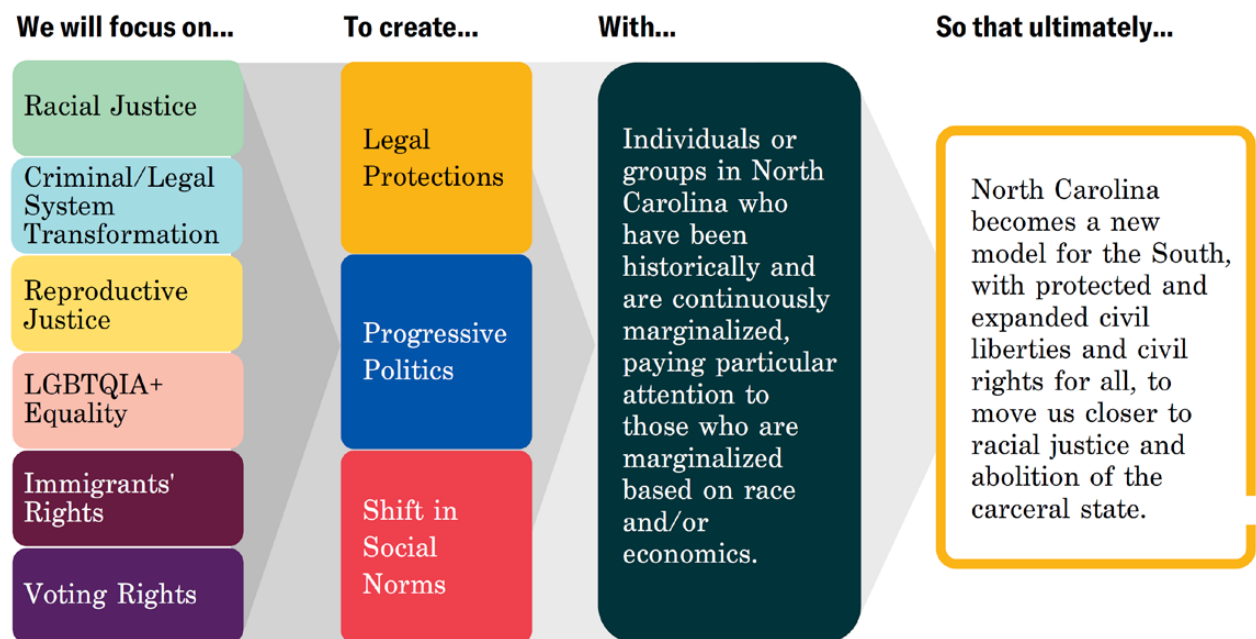


# Building Up and Planning Ahead

**A**mid the tumultuous 2+ years of widespread upheaval and virulent attacks on civil liberties, the ACLU of North Carolina has been evaluating our strategies, taking stock of our resources, and planning for a more perfect future.

We imagine a North Carolina that is a new model for the South, with protected and expanded civil liberties and civil rights for all, to move us closer to racial justice and abolition of the carceral state. Here's a glimpse of our 2022-2025 strategic plan:

## OUR INTENDED IMPACT



## Strategic Goals

### Criminal Legal System Transformation

- Reduce the number of people incarcerated in North Carolina prisons and protect and expand the rights of currently and formerly incarcerated people.

### Reproductive Justice

- Ensure that individuals have the care and resources they need to make decisions about

their bodies without fear or shame.

### LGBTQIA+ Equality

- Fight for LGBTQIA+ legal protections, including challenging laws that criminalize LGBTQIA+ people.

### Immigrants' Rights

- Stop the implementation of anti-immigrant policies at the state and local level and the erosion of immigrants' rights.

### Racial Justice

- Dismantle legislative, economic, and political systems that subject people of color to lesser quality and length of life, including housing, employment, education, and disproportionate contact with the brutality of the criminal legal system.

### Voting Rights

- Coalitionally expand voting access and

combat laws and practices that undermine a pillar of our democratic norms.

Learn more about our strategic plan and read it here.



## THEORY OF CHANGE

Putting our values into action shapes what our work looks like. The multi-pronged approach used to achieve our outcomes includes:



## For Kanautica and Trans People in NC Prisons

**O**n April 29th, The ACLU of NC, ACLU National, and Patterson Harkavy LLP filed a complaint on behalf of Kanautica Zayre-Brown, a transgender woman currently incarcerated at Anson Correctional Institution, after enduring two years of incarceration in men's prisons. Zayre-Brown, with support from ACLU-NC's legal team, successfully advocated for her transfer to a women's facility in August 2019. But the fight for her safety and wellbeing did not stop there.

She is still being denied imperative gender-affirming health care. Zayre-Brown has requested necessary treatment consistent with established medical standards, but the Department of Public Safety has ignored its constitutional obligation to provide her care.

DPS officials' pattern of inhumane treatment has caused Zayre-Brown physical health complications and extreme emotional and psychological distress, including thoughts of self-harm and suicide: "The physical, emotional, mental, and spiritual anguish can never be restored, but my courage and boldness stands above all and allows me to have an empowering and thunderous voice with unstoppable bravery," said Zayre-Brown in a statement from September 2019.

This failure to provide necessary care for Zayre-Brown violates the U.S. and North Carolina constitutions, the Americans with Disabilities Act (ADA), and the Rehabilitation Act of 1973. The complaint seeks damages and an injunction requiring DPS to provide Zayre-Brown with necessary medical care and accommodations for her gender dysphoria, including the use of gender-consistent terminology, consistent hormone therapy maintenance, and gender-affirming surgery.

This type of treatment is unfortunately all too common for incarcerated transgender people— transgender people often face disproportionate harassment, discrimination, and violence from guards and fellow prisoners. They are also routinely denied critical health care, as in Zayre-Brown's case. The ACLU of North Carolina will continue to fight for Zayre-Brown and to hold prisons accountable for violations and deprivations of the rights of incarcerated transgender people. ■



## Bracing for Change and Challenges

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for patients who cannot access care in their home states.

Abortion restriction is a tool of white supremacist power, informed by puritanical religious zealotry, to control marginalized bodies and reinforce the carceral state. More restrictions will almost certainly lead to criminal penalties for seeking abortion care and more pregnant Black and Brown women in jail and prison. Abortion access is already more difficult for people who are struggling to make ends meet. Further restrictions will only make it harder for those who work for minimum wage, have limited access to transportation, can't afford childcare, or don't get paid time off work. These systemic obstacles have a disproportionate impact on Black and Brown communities.

Due to discrimination in and beyond healthcare and socioeconomic discrepancies, Black and Latina women are already disproportionately impacted by obstacles to abortion care. Attacks on safe, legal abortion target women of color and contribute to ubiquitous white supremacist systems.

Limiting reproductive freedoms will also disproportionately impact the LGBTQ+ community. Our health care system already discriminates against LGBTQ+ patients, causing lasting disparities in health outcomes. Queer women and transgender people can and do become pregnant and require abortion services. They face additional barriers to accessing care, including discrimination and harassment by health care providers.

As we anticipate the increased restrictions to abortion care in the context of broader assaults on our civil liberties, we turn our attention to local elections that will shape the experiences of our communities in the coming years. We expect major headwinds in future legislative sessions, but we are motivated by our excellent track record in the

streets and in our courts.

We successfully urged Governor Roy Cooper to exercise his clemency power to release people from prison. In 2020, the ACLU launched The Redemption Campaign—Embracing Clemency, a nationwide effort to liberate 50,000 people from state prisons. Governor Cooper's clemency demonstrates a victory for decarceration in North Carolina.

In a win for LGBTQ+ equality, the N.C. Supreme Court upheld a Court of Appeals decision establishing that people in same-sex partnerships cannot be excluded from domestic violence protections. The opinion in *M.E. v. T.J.* was issued after the defendant appealed the December 2020 Court of Appeals decision holding that it was unconstitutional to exclude LGBTQ+ couples from domestic violence protections.

In March, a federal court approved a settlement with civil rights organizations and the N.C. Department of Motor Vehicles (DMV) in the federal class-

action lawsuit *Johnson v. Goodwin*. Under the terms of the settlement, the DMV will inform tens of thousands of drivers whose licenses were revoked due to inability to pay fees that they may be eligible for waiver or reduction of these costs and reinstatement of their license. This decision will help mitigate the harms of the unnecessarily harsh and punitive practice of revoking people's drivers' licenses because they cannot afford to pay fees, a practice which has disproportionately affected people of color.

As we move forward into a difficult and ever-changing political landscape, we are galvanized by these wins and will draw on past strategies and tactics to protect civil liberties, bodily autonomy, and contribute to a more perfect North Carolina. We will continue to lead with our core values and build people power to fight sustainably, as demonstrated by our new Strategic Plan (see centerfold). We've learned that we must invest in ourselves and our communities so we can show up for the people who need us—we hope you are with us. ■

## Reshelving Gender Queer

In December 2021, Wake County Public Libraries removed the book "Gender Queer: A Memoir" by Maia Kobabe from library shelves. The community response was robust. Many librarians were vocal in condemning the act of censorship and raising concerns about the process used to

remove items from the library's collection. Fifty-five librarians signed a letter demanding the return of the book to shelves and noting that librarians should have been included in the decision-making process.

ACLU of North Carolina members and supporters sent dozens of messages to Wake County Commissioners and library administrators. We also worked with Equality NC and the LGBT Center of Raleigh to raise concerns about the impacts of the act of censorship and highlight resources and support for LGBTQIA+ community members. ■





# Immigrants' Rights— Licenses, Legislation & Coalition



**O**ver the past three years, we have focused on two major organizing efforts:

- ending 287(g) agreements in one of the remaining counties that is working closely with ICE
- leading the #StopHB370 coalition to oppose anti-immigrant state legislation.

While we do not have a guaranteed path to victory, we see incredible potential to build a pipeline of immigrant leadership and to create intentional pro-immigrant communications strategies.

In the coming months, we will challenge the severe problems faced by immigrant North Carolinians in obtaining the drivers' licenses they are entitled to under the law. With current practices, people who are authorized to receive licenses are frequently turned away—likely because DMV representatives are not being trained to properly review various forms of immigration authorization. The license to drive is imperative in full participation in public life, and we will continue to defend members of our community and their civil liberties, regardless of where they were born. ■

## Using Integrated Advocacy

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prison staff. Prison staff sedated him involuntarily and, as a result, he fell and dislocated his shoulder. Griffin's calls for help were ignored. His case was dismissed because he did not exhaust the prison's administrative grievance program, even though doing so was impossible.

And soon, we will represent a man with several serious medical conditions who is incarcerated in LSCI Butner before his appeal at the U.S. Court of Appeals for the Fourth Circuit. Webster Williams, who takes a powerful diuretic for one of his ailments, was forced to decide between complying with an officer's order to return to his bunk during an alarm or urinating on himself. Williams proceeded to the restroom and was found guilty of a disciplinary infraction. He sued for discrimination on the basis of a disability, and a U.S. District Court dismissed his claim because he did not exhaust an administrative procedure—which he did not know about and prison staff did not tell him was necessary.

Hardin's, Griffin's, and Williams' experiences index the daily dehumanization of our prison system, the central focus of the Vigil for Racial Justice. We've played a lead organizing role in the Vigil, a broad coalition of North Carolinians standing vigil at the Governor's Mansion and across the state to demand justice for incarcerated people.

Building off the imperative work of the Vigil, we've launched a public education effort to inform the public about the history of the death penalty. The death penalty comes to the U.S. criminal-legal system from English law and the colonization of what we now call the United States. Branding people of color, "criminals" and condemning them to death advanced the violent theft of land from Indigenous people and maintained control over Black people as the labor source that built the nation.

The death penalty is a white supremacist inheritance of the past, and an extreme reminder of the brutality of our criminal legal system. In the courts, on our streets, and with our communities, we will continue our work in defense of all North Carolinians, including those held in our prisons and jails. ■



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## BUILDING THE WORLD WE WANT TO SEE

The ACLU of North Carolina is committed to reimagining a world that values and protects us all through our work to dismantle white supremacy, abolish the carceral state, and invest in our communities.

Learn more about and support our work on racial justice and more at [acluofnc.org/donate](https://acluofnc.org/donate).

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