



DEMAND  
JUSTICE  
FIGHT HATE

# The First 100 Days:

Albany's Path to a  
Fairer New York

**NYCLU**

NEW YORK CIVIL LIBERTIES UNION

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**ABOUT THE NYCLU**

The New York Civil Liberties Union (NYCLU) is one of the nation’s foremost defenders of civil liberties and civil rights. Founded in 1951 as the New York affiliate of the American Civil Liberties Union, the NYCLU is a not-for-profit, nonpartisan organization with eight chapters and regional offices and more than 180,000 members across the state. The NYCLU’s mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, including freedom of speech and religion, and the right to privacy, equality and due process of law for all New Yorkers. For more information, please visit [www.nyclu.org](http://www.nyclu.org).





## A HISTORIC OPPORTUNITY

New Yorkers went to the polls in unprecedented numbers in this year's midterms to send an unequivocal message to lawmakers: as the Trump administration continues to run roughshod over our democracy and wreak havoc on our lives, we want a state government that stands up for our rights. New Yorkers want leaders who will do everything they can to strengthen the pillars of our democracy, fight for the dignity of all people, and push back against the regime of hate in Washington.

New York's newly constituted legislature has a unique opportunity to enact a strong, forward-looking civil liberties agenda that secures fairness and equality for all New Yorkers. With a legislature in Albany that is finally free from the gerrymandered GOP stranglehold in the State Senate, lawmakers have a mandate to adopt long-overdue reforms that will improve the lives of New Yorkers and guard against the excesses of the Trump administration. Our lawmakers must listen to New Yorkers, act with courage, and move without delay.

This report sets forth **key legislative initiatives** that have been vetted — and stalled — in Albany over many years, **together with newer proposals that are urgently needed to protect New York's immigrant communities and children.**

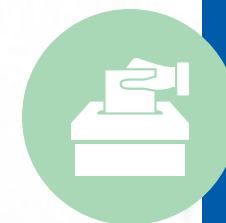
### State lawmakers must act now to pass legislation to:

- **Protect our democracy** by updating antiquated voting laws
- **Safeguard reproductive rights and personal autonomy** by removing abortion from New York's criminal code, protecting reproductive health, and giving people who are dying the right to a peaceful death
- **Achieve equal justice under the law** by reforming unfair court practices that keep New Yorkers — mainly black and Latino people — locked up for no good reason, adopting mechanisms to hold police accountable, and legalizing marijuana
- **Fight hate** by prohibiting discrimination against trans and gender non-conforming people, allowing immigrants to obtain driver's licenses, and finally affording farmworkers basic rights on the job
- **Stand up for children** by restoring New York's anti-discrimination protections to public schools and banning the use of invasive, inaccurate, unregulated, and biased facial recognition technology in public schools

These urgent reforms are needed now more than ever because President Trump has made clear that he will use every tool at his disposal to destroy the fabric of our democracy. We cannot count on the federal government or the Supreme Court to do what is best for New York. The legislative reforms we propose here represent an important step towards making New York's safety net for civil liberties and civil rights as strong as possible. They will make New York a beacon for humane values and democracy.

**The first 100 days of this year's legislative session could determine the kind of state we live in for generations to come. We must seize this historic opportunity.**





# Protect Our Democracy

## MAKE VOTING SIMPLER

**New York should enact early voting, no excuse absentee balloting, and electronic poll books to make our democracy more resilient.**

New Yorkers face unnecessary barriers to voting. The deadline to register is much earlier than other states. Then, if we can take time away from work and family to vote, we encounter long lines at the polls. We may even find our names missing from inaccurate paper poll books. Impeded by these challenges, New York has one of the lowest registration and turnout rates in the country.

As the Trump administration continues its campaign to curtail Americans' right to vote, New York must not allow these attacks to weaken our democracy. Instead, we should strengthen it.

Governor Cuomo and the Legislature should enact the following voting reforms in the next legislative session.

New Yorkers face unnecessary barriers to voting. New York has **one of the lowest registration and turnout rates** in the country.



Early Voting and No-Excuse Absentee Balloting

New York should:

- Provide 10 days of in-person early voting, including evenings and four weekend days.
- Pass legislative resolutions to amend Article 2, Section 2 of the state constitution, which represents the first step toward making absentee ballots an option for all New Yorkers, regardless of their circumstances.

Research shows<sup>1</sup> that one of the top reasons people report not voting is because they are “too busy or couldn’t get time.” Work, family obligations, health issues, transportation barriers, and other unexpected obstacles can make it difficult to cast a ballot in person on any one day.

Right now, New York law only allows absentee voting if a person will be out of the county on Election Day (or for New York City residents, out of the city) or if they are caring for an elderly or disabled person. That means voters with child care obligations, unpredictable work schedules, mobility issues, or other difficulties getting to the polls are unable to vote.

The majority of states allow early voting and no-excuse absentee balloting, but not New York.<sup>2</sup> Like the overwhelming majority of Americans, New Yorkers should be able to vote before Election Day.

Automatic Voter Registration (AVR)

New York should enact automatic voter registration through state agencies like the Department of Motor Vehicles and the Department of Health.

In November 2016, New York ranked 47th among the 50 states and Washington, D.C. in voter registration

rates, according to data from the Census Bureau.<sup>3</sup> The burden is on New Yorkers to make sure that they are registered, and that burden is a heavy one. Currently, online voter registration is only available to New Yorkers with current Department of Motor Vehicle identification cards. All other voters have to submit paper forms to their local Board of Elections. AVR removes this unnecessary barrier by registering eligible citizens who come in contact with a state agency and provide the essential information to that agency, unless the citizen chooses to opt out. AVR is an effective way to make significant improvements to New York’s dismal registration rate.

Electronic Poll Books

New York should pass legislation to use electronic poll books at all polling locations.

Paper poll books are an outdated way of tracking who is registered to vote. They take a substantial amount of time and money to print, and they are often riddled with errors, leaving eligible voters off the rolls. New York should modernize poll books and keep them electronically, which would make them more accurate and easier to use.

Electronic poll books can instantly provide poll workers with information to direct voters who show up at the wrong polling place to the correct one. Electronic poll books shorten lines by eliminating the need to divide up paper books alphabetically or geographically. They also save printing costs. Finally, electronic poll books can help implement early voting by allowing for easier updating.

New York should be leading, not lagging on voting efficiency and inclusiveness. It’s time to bring our 19th century election system up to date.







# Safeguard Reproductive Rights and Personal Autonomy

## PROTECT WOMEN'S RIGHT TO AN ABORTION

New York should pass the Reproductive Health Act to safeguard the right of pregnant women to get the health care they need and to remove abortion from the criminal law and regulate it like other medical care – in the public health law.

With reproductive rights under siege from the Trump administration and a Supreme Court poised to gut the protections of *Roe v. Wade*, New York must act. For too long, New York politicians have prevented women from getting the health care they need, including receiving abortion care.

New York was a leader when it legalized abortion in 1970, but nearly fifty years later, our abortion law remains in the criminal code, instead of the public health law. It fails to meet the standard of *Roe v. Wade* and prevents women from getting the medical care they need.

Abortion must be removed from the criminal code and regulated like other medical care – in the state's public health law. New York law must be strengthened so that a woman can make the personal health care decisions that are best for her, including the decision of whether to carry a pregnancy to term.



New York law criminalizes abortion after 24 weeks unless it is necessary to save a woman’s life. The law jeopardizes women’s health and safety, sometimes forcing women to travel to another state to get care – if they can afford it. Women must be able to make health decisions that are best for them and their families, with the support of trusted medical professionals. We shouldn’t play politics with women’s health.

Right now, a fear of criminal prosecution deters health care providers in New York from offering necessary abortion care. The statute discourages properly trained advanced practice clinicians (like nurse practitioners, physician assistants, and licensed midwives) from providing abortion care, even though they are fully trained to offer early abortion care. Removing antiquated language from our law would ensure that women, especially those with low-incomes or who live in rural areas, have greater access to the health care they need.

This is a critical moment in history. Women’s autonomy and their ability to achieve equality are hanging in the balance. With the majority of the Supreme Court hostile to reproductive rights, legislators must pass the Reproductive Health Act without delay.

## INCREASE CONTRACEPTION ACCESS

**New York should pass the Comprehensive Contraception Coverage Act (CCCA) to promote women’s independence and prevent unwanted pregnancies.**

First approved by the Food and Drug Administration more than 50 years ago, contraception has helped transform the cultural landscape in the United States. By providing people with the tools to determine whether and when to have children, contraception has been essential to women’s full and equal participation in society.

Nonetheless, a lack of comprehensive insurance coverage and high co-payments too often put contraception out of reach. This has serious consequences. Forty-five percent of pregnancies in the United States are unintended.<sup>4</sup> The overwhelming majority of them are due to a lack of contraceptive use or inconsistent or incorrect use.

To address this, we must close the gaps in coverage left by our current state and federal laws. In 2002, New York passed the Women’s Health and Wellness Act, which requires insurance plans that cover prescription drugs to include all FDA-approved contraceptive drugs and devices.<sup>5</sup> In 2010, the federal Patient Protection and Affordable Care Act (ACA) aimed to further close the gap by requiring employers to provide insurance plans that cover contraception without out-of-pocket costs for patients.<sup>6</sup>

While these laws are major steps forward, they have not been enough to ensure full coverage.<sup>7</sup> And the future of the ACA is far from certain. President Trump and Congress have taken steps to roll back the law’s federal contraceptive coverage requirement.<sup>8</sup> Without these protections in state law, New York is vulnerable to ongoing attacks from Washington.

The Comprehensive Contraception Coverage Act would eliminate the gaps in coverage that exist within our current laws. The CCCA would ensure timely and affordable access to contraception by requiring insurers to cover the contraception – including emergency contraception – that is right for the individual patient without a co-payment. It would also allow women to obtain a year’s supply of contraception.

This legislation ensures that people can better plan their families and their futures, strengthening the health and well-being of New Yorkers and our communities.

## GIVE PEOPLE WHO ARE DYING THE RIGHT TO A PEACEFUL DEATH

**New York should pass the Medical Aid in Dying Act, which would allow mentally competent, terminally ill adults with a prognosis of six months or less to live to obtain medical assistance in bringing about a peaceful death.**

New Yorkers who are dying deserve a basic measure of control and comfort as they near the end of their lives. No one who is confronted with a terminal illness should be forced to endure needless suffering or be denied a death with dignity.

A person facing terminal illness should have the right to make decisions about their own body and health care, including the right to make an informed decision to end their life peacefully.

Patients diagnosed with terminal illness often endure extensive, sometimes painful treatment. When the limits of such treatment are reached, many patients wish to have control over when and how their death occurs. The New York State Constitution guarantees the right of every individual to make their own medical decisions, including whether to accept or refuse medical treatment. The law must also recognize the right of terminally ill patients to end their lives on their own terms.

The Medical Aid in Dying Act would give terminally ill people the legal right to make these critical decisions in consultation with qualified physicians. Similar laws are on the books in six other states and Washington, D.C. The bill would allow people to be prescribed medication for the purpose of ending their lives if they have been found by two physicians to meet the following criteria: 1) the person is mentally competent and makes a voluntary and informed request, 2) the person suffers from a terminal illness, 3) the person has less than six months to live.

For those living in pain, the bill would provide an end-of-life option that would shorten periods of suffering.

The decision to accelerate the end of life is a deeply personal one and must never be the product of coercion. The Medical Aid in Dying Act contains critical safeguards intended to make sure that end-of-life decisions are voluntary and informed. Medication to accelerate death could only be requested by the patient – both orally and in writing, with witness signatures – and must be self-administered. Both an attending and consulting physician must conclude that an individual is competent to make this decision, and if either cannot make that determination, a referral for an independent mental health evaluation must be made.

Attending physicians must present alternative end-of-life options to the patient, including palliative and hospice care. And the decision of if or when to end one’s life always remains with the individual.

New York should pass this enlightened and compassionate legislation that honors and respects the wishes of our fellow New Yorkers during the most trying time of their lives.

A person facing terminal illness should have the **right to make decisions about their own body and health care**, including the right to make an informed decision to end their life peacefully.





# Achieve Equal Justice Under the Law

## ELIMINATE UNFAIR COURT PRACTICES

**New York should pass reform legislation on bail, discovery, and speedy trial.** Real reform must reduce the number of New Yorkers trapped behind bars, affirm that everyone accused of a crime is innocent until proven guilty, and give defendants access to a fair and speedy trial.

One of the cornerstones of our justice system is the presumption that people are innocent until proven guilty. But because of New York’s criminal procedure laws and the way they are carried out, untold numbers of New Yorkers are denied this basic right.

Each year, tens of thousands of New Yorkers who have not been convicted of a crime sit behind bars, pulled away from their work and their families, simply because they can’t afford to buy their way out on bail. A slow and backlogged court system drags out injustice, and unfair evidence sharing rules prevent defendants and their lawyers from effectively preparing and making informed decisions about their cases.

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Bail

Lawmakers should pass bail reform that:

- Ensures that no one is in jail because they can’t pay – either by ending cash bail or by requiring judges to consider alternatives to money bail
- Provides a strong presumption for pretrial release, making sure that jail before trial happens only in the rare event that a court can identify no alternative to ensure a person’s return to court
- Requires that everyone has a lawyer present when they are brought before a judge
- Requires judges to explain their reasoning for any bail decision in writing
- Prevents the use of risk assessment tools in determining who is detained
- Eliminates for-profit insurance bail bonds as an option for setting bail

Our bail system is broken in three major ways. First, judges tend to choose only two methods to assure a person’s return to court – cash bail and insurance company bail bond. But there are less onerous and fairer approaches to assure a person’s return to court.

Second, bail is set at amounts that people cannot afford. The majority of people in jails in New York have not been convicted of a crime, but they sit in jail because they are unable to pay for their release. Judges frequently do not take into account how much a person can afford when they set bail. This means that many people must borrow from friends or family, rack up debt, miss rent payments, or sell personal property to pay for their own or their loved ones’ freedom.

Third, our bail system discriminates against black and brown people. Some communities are strictly and intensely policed while others are not. And black and brown New Yorkers are more likely to be incarcerated

because they can’t afford bail. A recent NYCLU report found that in a cross-sample of eight counties, black New Yorkers were twice as likely to spend the night in jail after bail was set than white New Yorkers.<sup>9</sup>

Real bail reform should not only prevent people from being kept in jail simply because they are poor. It should also lead to fewer people in jail overall. There should not be carve-outs in the legislation that could lead to even more people being incarcerated before their trials.

Discovery

New York should take the blindfold off people facing criminal charges by passing open, early, and automatic discovery reform that:

- Adopts a modern, “open file” discovery model in which the prosecution’s entire file of evidence may be viewed by the defense
- Requires the prosecution to turn over evidence as soon as possible, without making the defense ask for it
- Does not force a defendant to make a decision about a plea deal without seeing the state’s evidence

The Blindfold Law, as New York’s criminal discovery rule is known, keeps people accused of crimes in the dark about the critical facts of their case. Unlike most other states, New York allows prosecutors to withhold police reports, witness names and statements, grand jury minutes, video recordings, and other vital information from the defense until the day of trial.

Roughly 96 percent<sup>10</sup> of criminal convictions statewide are resolved through plea deals, and New York prosecutors are not required to turn over evidence prior to any plea bargain. Defendants are forced to make life-altering decisions without ever knowing how strong or weak the case against them is.

Most states and the federal government long ago reformed their criminal discovery rules, giving defendants broad, early access to evidence, and no state that has done so has ever gone back.

Speedy Trial

New York should pass speedy trial reform that gives every defendant a firm trial date – a date they can rely on that will not be dictated by prosecutors or by a crowded court calendar.

New Yorkers are entitled under the constitution to a speedy trial, but waiting for trial in New York – even for a low-level offense – can take years.

Unlike every other state’s speedy trial law, New York only holds courts and prosecutors accountable for the time it takes for prosecutors to state that they are “ready” for trial, not for how long it actually takes for a trial to happen. Not surprisingly, some prosecutors say they are ready as a way to stop the speedy trial “clock” and still drag out cases for months or even years.

The length of time people are forced to languish in jail awaiting trial violates the spirit of the law. The average wait for a jury trial in the Bronx for misdemeanors, for example, was nearly two-and-a-half years in 2014.<sup>21</sup> By contrast, the sentence for a person convicted of a misdemeanor in the Bronx is 365 days or less. So a person accused of a misdemeanor can spend more time in jail waiting for a trial than if they had pled guilty and received the maximum sentence. This creates a devastating choice for New Yorkers who are entitled to the presumption of innocence.

This can have tragic consequences, as in the case of Kalief Browder. Then-16-year-old Browder was forced to spend three years in jail before a judge dismissed the charges for lack of evidence. Browder endured months upon months of solitary confinement and abuse on Rikers Island simply because he chose to exercise his

right to a trial, refusing to plead guilty to an offense he swore he did not commit. After his release, Browder committed suicide.

Browder’s death is a constant reminder of the urgent need for reform.

REFORM POLICE PRACTICES AND TRANSPARENCY

Open the Books on Policing

**New York should pass the Police Statistics and Transparency (Police-STAT) Act to shed a light on law enforcement.**

New York has a police secrecy problem. Currently New York does not collect critical information about police encounters and abuses.

From enforcement of the lowest-level offenses, like getting a ticket for having a beer in a park or riding a bike on the sidewalk, to the most serious cases where an officer kills someone, no state law requires police departments to collect and report information that would give New Yorkers the full story on police activity in their communities. Police departments often keep secret how they decide whether to ticket or arrest people for low-level, non-criminal violations, the demographic information of the people targeted for enforcement, or even when police officers kill the people they are sworn to protect.

It is essential to understand how racially biased policing is, and how it impacts communities of color throughout New York. But without data on how New Yorkers encounter the police, it is impossible for the public and policymakers to gauge the true impact, costs, and effectiveness of police practices. And without a clear mandate requiring local police departments to report on police killings, we are left to rely on journalists, witnesses, and grieving family members for this critical information.



For the past three years, the Assembly has passed the Police Statistics and Transparency (Police-STAT) Act. This bill would require the collection and reporting of basic information, including the number of people killed by the police; the number of arrests and tickets for all violation and misdemeanor offenses; the locations of police encounters; and the race, ethnicity, age and sex of people ticketed, arrested or killed by the police.

This common-sense measure is a first step to understand how policing affects New Yorkers’ lives. It is time for the Senate to follow the Assembly’s lead and ensure that this bill reaches the Governor’s desk.

### Hold Police Officers Accountable

**New York should repeal Section 50-a of the state Civil Rights Law, the most secretive law in the country, and make public the outcomes of police misconduct cases.**

New Yorkers are kept in the dark about how, if at all, police departments hold officers accountable for misconduct, including officers who unjustifiably kill New Yorkers. Section 50-a of the state Civil Rights Law, the most secretive law in the country on police misconduct, declares that police “personnel records” used to evaluate an officer’s performance are confidential. They can only be disclosed if an officer agrees to make them public or a court orders their release.

As bad as the law is on its face, police departments, local governments, and police unions across the state are trying to make it even worse. Police departments are invoking 50-a to hide outcomes of disciplinary trials – even for allegations of serious misconduct that are substantiated by investigators. Departments have tried to hide information on use of force incidents, claiming that the officers’ reports about the incidents, and sometimes even just statistics about the frequency of these incidents, are personnel records. And a lawsuit in New York City even threatens to make all police

body-worn camera footage confidential under 50-a, which would turn an accountability tool into a mass surveillance device.

State lawmakers should repeal section 50-a of the Civil Rights Law and treat police disciplinary records like any other public record under the state’s Freedom of Information Law. Until recently, New York, Delaware, and California were the only three states that specifically made all police personnel records confidential. With a recent change in California law to expand the public’s access to information about police misconduct, New York is now one of the worst two states when it comes to transparent police records. As long as 50-a remains on the books, it will be used to prevent the public from learning important information about the people sworn to protect them and the department leaders tasked with holding them accountable.

New York has the opportunity to set a new standard for transparent and equitable policing. Public reporting on police activities and public access to police disciplinary records will strengthen New Yorkers’ ability to hold police accountable.

## LEGALIZE MARIJUANA

**New York should pass the Marijuana Regulation and Taxation Act (MRTA) to legalize marijuana and help end Broken Windows policing.**

Marijuana arrests have a devastating and disproportionate impact on communities of color in New York state. In our state, more than 80 percent of people arrested for marijuana possession are black or Latino.<sup>22</sup>

While the New York State Legislature decriminalized most possession of small amounts of marijuana in 1977, loopholes in the law have allowed for hundreds of thousands of arrests for smoking in public and public display of marijuana. This happens even when the drug is only visible because a police officer told someone

to empty their pockets. Low-level possession remains one of the most frequently charged crimes in New York, generating more than 800,000 arrests since 1996.<sup>23</sup> On average, 60 New Yorkers are arrested for marijuana possession every day.<sup>24</sup>

These arrests have a disastrous impact on New Yorkers, especially in communities of color. Hundreds of thousands of people across the state have been funneled into the criminal justice system – for behavior that most New Yorkers don’t even believe should be a crime.<sup>25</sup> This entanglement with the justice system can have far-reaching consequences: people can lose their jobs, housing, and child custody. Lives can be upended and destroyed.

It is time to end the criminalization of marijuana for good by passing the Marijuana Regulation and Taxation Act (MRTA). If enacted in 2019, this legislation would make New York the 10th state to legalize and regulate marijuana for use by adults.

Under the MRTA, adults 21 and older will be able to legally possess, transport, purchase, consume, and share up to two pounds of marijuana. The bill removes marijuana and marijuana products from the state Controlled Substances Act, legalizes private cultivation of up to six plants, and eliminates most existing misdemeanors and felonies related to marijuana from the state penal law. The reductions in criminal liability will be retroactive: past convictions for crimes reduced or eliminated by the legislation can be sealed or reduced on the person’s criminal record. It will also ensure a well-regulated, diverse, and inclusive legal marijuana industry going forward.

The fiscal benefits of legalizing marijuana are substantial – the MRTA would direct hundreds of millions of dollars in annual state revenues from legal sales to good use, including in low-income communities hit hardest by the criminalization of marijuana. Half of the tax revenues that exceed the costs of researching and implementing the law would go to the Community Grants Reinvestment

Fund for job training, after-school programs and community-centered projects in low-income communities and areas ravaged by the war on drugs. Another 25 percent of the surplus revenue would fund drug treatment programs and public education campaigns. The remaining share would help fund public schools.

The MRTA is a long-overdue initiative to right a grave, decades-long injustice. The federal government’s stance on marijuana policy reform has devolved from mere indifference to outright hostility under the Trump administration. It is time for New York officials to step up, stop the harm, and start repairing the damage from the failed war on drugs.

Marijuana arrests have a devastating and disproportionate impact on communities of color in New York state.





## Fight Hate

### STOP GENDER EXPRESSION DISCRIMINATION

**New York should pass the Gender Expression Non-Discrimination Act (GENDA) to defend the rights of transgender and gender non-conforming New Yorkers.**

For some New Yorkers, the simplest and most fundamental parts of their identity – how they dress, the pronouns that they use, their speech, even their names – expose them to hostility and exclusion.

The Trump administration has made clear its determination to deny the existence of, and undermine the safety and legal rights of, transgender and gender non-conforming people.<sup>26</sup> Our state must step up to protect New Yorkers.

The Gender Expression Non-Discrimination Act (GENDA) would provide explicit legal protections by amending state law to add gender identity and gender expression to New York's anti-discrimination statutes.

The need for this legislation is clear. In a 2011 national survey that asked transgender and gender-nonconforming people about their experiences of discrimination, 47 percent of survey respondents said they had experienced an adverse job outcome, such as being fired, not hired, or denied a promotion, because of their identity or expression.<sup>27</sup> Similarly, many respondents reported discrimination when they tried to secure housing and 19 percent said they had been homeless at some point.

Gov. Cuomo signed an executive order in 2015 that bans harassment and discrimination against transgender and gender non-conforming people.<sup>28</sup> But executive orders can be reversed by another administration. New York needs a law that cannot be reversed by the stroke of a governor's



pen to protect the rights and dignity of transgender and gender non-conforming people against the hate-filled policies of the Trump administration.

Twenty other states have already passed laws like GENDA – New York should be next.

## GIVE A GREEN LIGHT TO DRIVER'S LICENSES FOR IMMIGRANTS

**New York should pass the Driver License Access and Privacy Act (Green Light bill) to make life easier and safer for immigrants.**

A driver's license is something many of us take for granted, but having one is incredibly important in our daily lives. In many parts of New York, where public transportation is limited, a driver's license is essential to commute to work, shop for groceries, and access medical care. A state-issued driver's license is also the most reliable way to prove identity when opening a bank account, applying for public services, or interacting with government officials. Yet New York refuses to allow many immigrant New Yorkers to get a license.

If New York wants to be a truly welcoming place for immigrants, we must pass the Driver License Access and Privacy Act – commonly referred to as the Green Light bill – which would make driver's licenses available regardless of a person's immigration status. The bill would also enact important privacy protections for all driver's license holders, so that their personal information is not compromised or disclosed unnecessarily.

Passing the Green Light bill would add New York to a growing list of states that have expanded access to driver's licenses to immigrants who lack documentation. A dozen states, including California, Connecticut, and Utah, in addition to Puerto Rico and Washington, D.C., have removed barriers that immigrants face when

applying for licenses. Some states that expanded driver's license access saw declines in the number of driver fatalities and uninsured motorists in the following years.<sup>29</sup>

Making drivers licenses available to immigrants will enhance the safety of all New Yorkers, and for immigrants, it will reduce the risk of deportation as a result of a traffic stop. Allowing immigrant New Yorkers to drive legally also means they can more easily make a living and better care for their families. The Green Light bill is a straightforward way to make life less complicated and safer for immigrant New Yorkers who find themselves under constant threat from the Trump administration.

## PROTECT FARMWORKERS

**New York should pass the Farmworker Fair Labor Practices Act to give farmworkers the same rights as other workers in New York.**

The FFLPA would give farmworkers the right to:

- Collective bargaining
- At least one day per week of rest
- Overtime pay
- Workers' compensation when injured on the job

Farmworkers are the backbone of New York's massive agricultural industry, which produces annual revenues of over \$5.4 billion.<sup>30</sup> Ranked among the top agricultural states in the country, New York is the second-largest producer of apples, snap beans, and maple syrup and, due to the popularity of Greek-style yogurt, is now the third largest dairy producer in the nation.<sup>31</sup>

Yet for the 80,000 men and women who do the work of harvesting vegetables, picking fruit, and feeding, cleaning, and milking dairy cows, the pay is meager – despite long hours and deplorable work conditions. In the latest findings from the National Agricultural Workers Survey,

the U.S. Department of Labor reports that 30 percent of farmworkers have annual incomes below the poverty level.<sup>32</sup> And because of exposure to toxic chemicals, intense physical strain, proximity to large animals, and dangerous machinery, farm work is one of the most dangerous – and most deadly – occupations.

Farmworker women are perhaps the most vulnerable. Some reports have found that as many as 80 percent of female farmworkers have experienced sexual harassment and abuse on the job.<sup>33</sup> Assault and the most extreme forms of harassment are so common that many women consider it unavoidable. As one female worker succinctly described it, "You allow it or they fire you."<sup>34</sup>

These problems persist in part because New York farmworkers have been denied the basic labor protections that almost all other hourly workers enjoy, including the right to at least one day per week of rest, overtime pay, workers' compensation when injured on the job, and the right to collective bargaining. Indeed, New York lags behind New Jersey, California, Wisconsin, Indiana, and eight other states that recognize the right of farmworkers to collective bargaining.

The continued exploitation of workers so vital to the New York economy is immoral and unjust.







# Stand Up for Students

## FIX THE HUMAN RIGHTS LAW

**New York should pass a human rights restoration bill to protect public school students against discrimination.**

Given the Trump administration's rollback of federal civil rights protections for students, and the resulting rise in discrimination, it is more important than ever to fix New York's Human Rights Law and protect children in public schools.

In 2012, the New York Court of Appeals decided on technical grounds that the Human Rights Law would no longer protect students enrolled in New York public schools. Since then, New York's public-school students have been unprotected by state civil rights protections.

Until 2017, students facing discrimination or harassment in New York public schools could seek recourse through the federal Department of Education's Office for Civil Rights. But under President Trump, OCR has sharply curtailed protections for vulnerable students and made clear that the OCR can no longer be counted on.<sup>25</sup>

Legislators must pass a human rights restoration bill to reinstate crucial state civil rights protections for the millions of New York students who attend public schools. Passing this legislation would show that lawmakers take students' civil rights and their safety seriously.

Fix New York's  
Human Rights Law  
and **protect children**  
in public schools



# BAN FACIAL RECOGNITION TECHNOLOGY IN SCHOOLS

**New York should bar the use of facial recognition technology in public schools to protect students’ privacy and safety.**

Lockport City School District in Western New York is using \$4 million in state taxpayer dollars to purchase facial recognition technology for use in its schools. Lockport is one of the first school districts in the country to use this untested, error-prone, and biased technology on students. More districts could soon follow Lockport’s lead.

New York state has no regulations to govern the use of this technology. The New York State Education Department and the State Legislature should prohibit its use in public schools so that students, including those as young as four, are not subjected to this invasive surveillance technology.

Facial recognition technology has been shown to be inaccurate, particularly in identifying women, young people, and people of color.<sup>36</sup> The use of this technology has the potential to turn schools into surveillance areas and youthful misbehavior into a crime.

Questions about how the information and images collected by the technology will be maintained and shared and who will have access to them, remain unanswered. There is also a danger that the data could be used for immigration enforcement, which could make parents of immigrant students afraid to send their children to school for fear that they or their children could end up on ICE’s radar. Many districts, including Lockport, may be ill-equipped to safeguard this sensitive student data.

Students should think of schools as a safe place to learn. They should not have to worry that their every move is being monitored or that their pictures could end up in a police or immigration database simply because they came to class. The New York State Education Department and the State Legislature should immediately issue a moratorium on the use of facial recognition technology in public schools.







## The Time is Now

With new leadership in the State Senate and an undependable federal government, the time is now for New York to live up to the progressive values of New Yorkers. We can no longer afford to delay the critical action necessary to strengthen civil liberties and protect the rights of New Yorkers across the state. New Yorkers are counting on their elected leaders to mobilize the energy of this remarkable moment for justice and equality.



END NOTES

<sup>1</sup> Christopher Ingraham, “A Ton of People Didn’t Vote Because They Couldn’t Get Time Off From Work,” Washington Post, November 12, 2014. Available at: <https://www.washingtonpost.com/news/wonk/wp/2014/11/12/a-ton-of-people-didnt-vote-because-they-couldnt-get-time-off-from-work/>

<sup>2</sup> National Conference of State Legislatures, Absentee and Early Voting, Oct. 29, 2018. Available at: <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>

<sup>2</sup> U.S. Census, Voting and Registration in the Election of November 2016, May, 2017. Available at: <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html>

<sup>4</sup> Guttmacher, Unintended Pregnancy in the United States, Sept. 2016. Available at: <https://www.guttmacher.org/fact-sheet/unintended-pregnancy-united-states>

<sup>5</sup> N.Y. Ins. Law § 3221 (l)(16) (Statute requiring all federal Food and Drug Administration approved contraceptive services including oral contraceptives, diaphragms, Norplant, Depo Provera, cervical caps, IUDs, and generic equivalents.).

<sup>6</sup> Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 199 (2010); 42 U.S.C.A. § 300gg-13(a)(4) (In accordance with the ACA and implementing regulations, the Department of Health and Human Services issued Women’s Preventive Services: Required Health Plan Coverage Guidelines, which adopt the independent Institute of Medicine evidence-based recommendations, and require coverage of eight preventive health care services, including all FDA-approved methods of contraception, without cost-sharing. The guidelines and a list of covered preventive health care services for women are available at <http://www.hrsa.gov/womensguidelines/>)

<sup>7</sup> The ACA requires contraceptive coverage without a co-payment but does not require coverage of the full array of contraceptive types available; this means that individuals may not have the option to choose the type that is right for them. Further, a lack of clarity in the federal law has led to inconsistent implementation and enforcement. In the Spring of 2014, the New York Alliance for Women’s Health (NYAWH), based on research that included blind calls its members made to insurance plans, concluded that some plans that insurers were offering in the NYS Health Exchange were inappropriately charging cost-sharing and omitting coverage of some methods of contraception, putting women at risk of unintended pregnancy.

<sup>8</sup> Brianna Ehley, “Trump Rolls Back Obamacare Birth Control Mandate,” Politico, October 6, 2017. Available at: <https://www.politico.com/story/2017/10/06/trump-rolls-back-obamacares-contraception-rule-243537>

<sup>9</sup> New York Civil Liberties Union, Presumed Innocent for a Price: The Impact of Cash Bail on Eight New York Counties, March 13, 2018. Available at: <https://www.nyclu.org/en/publications/presumed-innocent-price-impact-cash-bail-across-eight-new-york-counties-2018>

<sup>10</sup> New York State Division of Criminal Justice Services, Criminal Justice Processing Report - Criminal Justice Case Processing Arrest through Disposition New York State January - December 2017. June 2018. Available at: <http://www.criminaljustice.ny.gov/crimnet/ojsa/dar/DAR-4Q-2017-NewYorkState.pdf>, Table 11.

<sup>21</sup> Benjamin Weiser, James C. McKinley Jr., “Chronic Bronx Court Delays Deny Defendants Due Process, Suit Says,” The New York Times, May 10, 2016. Available at: <https://www.nytimes.com/2016/05/11/nyregion/chronic-bronx-court-delays-deny-defendants-due-process-suit-says.html>

<sup>22</sup> Drug Policy Alliance, The Marijuana Regulation and Taxation Act: Racial Justice Considerations, September, 2017. Available at: [http://smart-ny.com/wp-content/uploads/2017/06/StartSMART\\_DPA\\_MRTA\\_Racial\\_Justice\\_09.14.2017.pdf](http://smart-ny.com/wp-content/uploads/2017/06/StartSMART_DPA_MRTA_Racial_Justice_09.14.2017.pdf)

<sup>23</sup> Drug Policy Alliance, The Marijuana Regulation and Taxation Act: Racial Justice Considerations, September, 2017. Available at: [http://smart-ny.com/wp-content/uploads/2017/06/StartSMART\\_DPA\\_MRTA\\_Racial\\_Justice\\_09.14.2017.pdf](http://smart-ny.com/wp-content/uploads/2017/06/StartSMART_DPA_MRTA_Racial_Justice_09.14.2017.pdf)

<sup>24</sup> Drug Policy Alliance, The Marijuana Regulation and Taxation Act: Racial Justice Considerations, September, 2017. Available at: [http://smart-ny.com/wp-content/uploads/2017/06/StartSMART\\_DPA\\_MRTA\\_Racial\\_Justice\\_09.14.2017.pdf](http://smart-ny.com/wp-content/uploads/2017/06/StartSMART_DPA_MRTA_Racial_Justice_09.14.2017.pdf)

<sup>25</sup> Quinnipiac University Poll, “New York Voters Back Legalized Marijuana Almost 2 to 1,” May 3, 2018. Available at: <https://poll.qu.edu/new-york-state/release-detail?ReleaseID=2541>

<sup>26</sup> Erica L. Green, Katie Benner, Robert Pear “‘Transgender’ Could Be Defined Out of Existence Under Trump Administration,” The New York Times, Oct. 21, 2018. Available at: <https://www.nytimes.com/2018/10/21/us/politics/transgender-trump-administration-sex-definition.html>

<sup>27</sup> See generally Jaime Grant, et al., Injustice at Every Turn: A Report of the National Transgender Discrimination Survey (2011) available at [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf) (“The Survey”).

<sup>28</sup> “Governor Cuomo Introduces Regulations to Protect Transgender New Yorkers from Unlawful Discrimination,” New York Gov. Andrew M. Cuomo, Oct. 22, 2015. Available at: <https://www.governor.ny.gov/news/governor-cuomo-introduces-regulations-protect-transgender-new-yorkers-unlawful-discrimination>

<sup>29</sup> Scott M. Stringer, New York City Comptroller Bureau of Policy Research, “The Road to Opportunity: Granting Driver’s Licenses to All New Yorkers, Jan. 2017, p. 8, available at [http://fiscalpolicy.org/wp-content/uploads/2017/01/NYC-Comptroller-DL\\_Report\\_FINAL.pdf](http://fiscalpolicy.org/wp-content/uploads/2017/01/NYC-Comptroller-DL_Report_FINAL.pdf).

<sup>30</sup> U.S. Department of Agriculture, 2012 Census of Agriculture, New York State Profile. Available at: [https://www.nass.usda.gov/Publications/AgCensus/2012/Online\\_Resources/County\\_Profiles/New\\_York/cp99036.pdf](https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/County_Profiles/New_York/cp99036.pdf)

<sup>31</sup> U.S. Department of Agriculture, 2016-2017 Agricultural Statistics Annual Bulletin: New York. Available at: [https://www.nass.usda.gov/Statistics\\_by\\_State/New\\_York/Publications/Annual\\_Statistical\\_Bulletin/2017/2016-2017%20NY%20Annual%20Bulletin.pdf](https://www.nass.usda.gov/Statistics_by_State/New_York/Publications/Annual_Statistical_Bulletin/2017/2016-2017%20NY%20Annual%20Bulletin.pdf)

<sup>32</sup> United States Department of Labor Employment and Training Administration Office of Policy Development and Research, Report No. 12, Dec. 2016. Available at: [https://www.doleta.gov/naws/pages/research/docs/NAWS\\_Research\\_Report\\_12.pdf](https://www.doleta.gov/naws/pages/research/docs/NAWS_Research_Report_12.pdf)

<sup>33</sup> Mary Bauer, Mónica Ramírez, Injustice on our Plates: Immigrant Women in the U.S. Food Industry, The Southern Poverty Law Center, November, 2010. Available at <https://www.splcenter.org/20101107/injustice-our-plates>

<sup>34</sup> Mary Bauer, Mónica Ramírez, Injustice on our Plates: Immigrant Women in the U.S. Food Industry, The Southern Poverty Law Center, Nov., 2010. Available at: <https://www.splcenter.org/20101107/injustice-our-plates>

<sup>35</sup> Benjamin Wermund, “DeVos Rewrites Rules for School Civil Rights Probes,” Politico, March 1, 2018. Available at: <https://www.politico.com/story/2018/03/01/betsy-devos-school-civil-rights-rules-711790>

<sup>36</sup> Alvaro Bedoya, Jonathan Frankle, Clare Garvie, The Perpetual Lineup: Unregulated Police Face Recognition in America, Georgetown Law Center on Privacy & Technology, Oct. 18, 2016. Available at: <https://www.perpetuallineup.org/>





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