



New Hampshire House Criminal Justice and Public Safety Committee
January 15, 2026
RE: House Bills 1413, 1730, 1737, 1749

Dear Members of the Committee,

The American Civil Liberties Union (ACLU) and the ACLU of New Hampshire strongly oppose House Bills 1413, 1730, 1737, and 1749 as they all seek to reinstate the death penalty. We testified today against HB1730 and intend our testimony to apply to the bills scheduled yesterday that also reinstate the death penalty.

As you heard today during a long, emotional, and impactful hearing, a substantial body of evidence shows that the death penalty does not deter crime, carries a significant risk of executing innocent people, and is applied in a racially disproportionate manner. Its implementation has repeatedly involved cruel and inhumane practices, including executions that are frequently flawed. The death penalty is an irreversible exercise of state authority that has proven ineffective in improving public safety and is significantly more costly than life imprisonment. There is no reliable ethical, scientific, or medically accepted basis to support its use, let alone its reinstatement.

In New Hampshire, the two methods of execution are lethal injection and hanging. Both are known to lead to protracted, extremely painful, and sometimes gruesome deaths. If the drop is too short, hanging can be a slow and agonizing death by strangulation. If it is too long the head will be torn off. And for lethal injection, a US federal court noted that, "Even a slight error in dosage... can leave a prisoner conscious but paralyzed while dying, a sentient witness of his or her own asphyxiation." (Chaney v. Heckler, 718 F.2d 1174, 1983). The bottom line is that there is just no sanitizing the process of state sanctioned killing.

The death penalty contravenes constitutional and civil rights principles and is fundamentally flawed.

The Fourteenth Amendment's guarantee of equal protection is routinely violated in death penalty cases. Decades of research confirm that race, geography, and socioeconomic status – not the severity of the crime – determine who receives a death sentence.

The death penalty is racially biased. Defendants of color and poor defendants are already vastly overrepresented on death row. Victim characteristics, including race and occupation, too often influence charging decisions. The Constitution demands evenhanded justice – not a system that magnifies bias and unequal treatment.

Every other Western democracy has abolished the death penalty as inconsistent with human rights and human dignity. Reinstating the death penalty moves New Hampshire's justice system backwards and further from constitutional decency and evolving standards of fairness.

No criminal sanction is more final than execution and no system more prone to irreversible error. Over 190 people nationwide have been exonerated from death row since 1973. Bringing back the death penalty to New Hampshire will also bring back the likelihood of executing the innocent.

Reinstating the death penalty does not strengthen democratic values. It weakens them. New Hampshire can unequivocally condemn violence and impose the severe penalties available without embracing an irreversible punishment that history has shown to be arbitrary, costly, and prone to error.

Often overlooked is the severe toll that the death penalty takes on those charged with carrying out executions. Many of those involved in executions, including prison staff and corrections officers, have reported suffering PTSD symptoms, such as flashbacks, nightmares, and other forms of distress.

The death penalty does not deter violence or crime.¹

Empirical research consistently shows that the death penalty does not deter crime more effectively than long-term imprisonment and in fact may actually increase other kinds of crime. For example, increased severity of punishment can create perverse incentives for offenders to eliminate witnesses or otherwise escalate violence to avoid detection or conviction, because the expected cost of capture is higher when execution is a possible outcome. Research on the death penalty's deterrence effects has noted that harsher penalties such as the death penalty may not lower crime rates and can actually be associated with behaviors like increased incentives to kill police or witnesses to avoid capture for capital crimes, undermining public safety. Moreover, the Supreme Court has commented on the same concerns that arise with HB1730 in *Kennedy v. Louisiana*, 554 U.S. 407 (2008) stating, "In addition, by in effect making the punishment for child rape and murder equivalent, a State that punishes child rape by death may remove a strong incentive for the rapist not to kill the victim. Assuming the offender behaves in a rational way, as one must to justify the penalty on grounds of

¹ Some, but not all research worth considering. National Research Council, *Deterrence and the Death Penalty* 2 (Comm. on Law & Just., Nat'l Acad. Press 2012) (concluding that existing research is not informative as to whether capital punishment decreases, increases, or has no effect on homicide rates); Nat'l Inst. of Just., *Five Things About Deterrence* (U.S. Dep't of Just., May 2016), <https://nij.ojp.gov/topics/articles/five-things-about-deterrence> (finding that increasing the severity of punishment, including the death penalty, does little to deter crime and that certainty of punishment matters more than severity); Michael L. Radelet & Traci L. Lacoock, *Do Executions Lower Homicide Rates? The Views of Leading Criminologists*, 99 *J. Crim. L. & Criminology* 489, 502–03 (2009); Nat'l Inst. of Just., *Deterrence and the Death Penalty* (U.S. Dep't of Just., 2014), <https://www.ojp.gov/library/publications/deterrence-and-death-penalty> (summarizing decades of research and concluding there is no credible evidence that capital punishment deters homicide and some empirical research suggests executions may actually increase homicides, reflecting a brutalization effect); United Nations Office of the High Commissioner for Human Rights, *Moving Away from the Death Penalty* (UNHCHR, Jan. 6 2013, p. –. ("offenders threatened with death could have an added incentive to kill witnesses to their crimes"); Forst, B. "Capital Punishment and Deterrence – Conflicting Evidence?" NCJRS Virtual Library (Office of Justice Programs) (noting that available evidence suggests the death penalty does not clearly deter and may increase incentives to kill witnesses to avoid capture).

deterrence, the penalty in some respects gives less protection, not more, to the victim, who is often the sole witness to the crime.” Furthermore, if the death penalty was a deterrent, states that repeal the death penalty would see spikes in their murder rate, but they don’t. In fact, states that do not have the death penalty have lower murder rates than states that still have it.

The death penalty comes with an enormous fiscal price tag and New Hampshire cannot take on this cost especially given the current financial realities of the state.

Death penalty cases are vastly more expensive than non-capital prosecutions, often costing taxpayers millions more per case. Bringing back these cases diverts scarce public resources away from effective violence prevention, treatment, and victim services toward an inefficient, litigation-heavy punishment system. Not to mention the many other expenses that will come with reinstating the death penalty, such as having to build a death chamber, alongside the new prison project that has already begun with its own high cost and the current budget cuts to the Department of Corrections.

Bringing back the death penalty will negatively impact civil liberties and community trust.

The death penalty corrodes the integrity of the justice system and often sends a dangerous message that some lives are worth less than others and chills confidence among communities that the law applies equally to all.

Even in moments of intense public anger following high-profile acts or threats of political violence, we should be especially careful not to legislate from grief or outrage. Our criminal justice system is strongest when it is grounded in evidence, constitutional principles, and restraint. Reinstating the death penalty in response to an emotionally charged case would expand irreversible state power without improving public safety, while reintroducing the very risks of error, disparity, and costly litigation that led New Hampshire to repeal the death penalty in the first place.

Nothing about opposing the death penalty diminishes the seriousness of horrific acts of violence or the harm suffered by victims and communities. The question before us is not whether such acts deserve condemnation – they do – but whether bringing back the death penalty makes us safer or more just. The evidence shows it does neither.

Respectfully submitted,



Amanda Azad
Policy Director
ACLU of New Hampshire
amanda@aclu-nh.org

Kimberly S. Buddin
Senior Policy Counsel
Policy and Government Affairs, Justice
American Civil Liberties Union
kbuddin@aclu.org