

LOUISIANA **PROGRESS**

2021

LEGISLATIVE SESSION REPORT

PART 2

Louisianaprogress.org



PROGRESS AT A GLANCE

Inform, Engage, Mobilize

Louisiana Progress works with citizens, community leaders, activists, advocates, students, and policymakers to **inform** Louisianans on important issues, **engage** people in the political process, and help them **mobilize** to fight for people-centered, solutions-driven public policies. Learn more about Louisiana Progress and sign up for alerts at www.louisianaprogress.org.

Bold Committed Leadership

Louisiana Progress’s leadership is committed to making lasting change by developing engaged, energized stakeholders who come together to work on a strategic, thoughtful, shared vision. We want to thank our board, staff, and college advocacy fellows for their commitment to impactful progressive change.

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The Coalition for Louisiana Progress was formed in 2005 as a 501(c)3 organization. Louisiana Progress Action was formed in 2011 as a 501(c)4 organization.

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INTRODUCTION

Welcome to Part Two of our 2021 Louisiana Regular Legislative Session Report. If you missed Part One, you can find it [here](#).

Louisiana Progress was present at the Capitol as a reliable voice for sane, smart public policies that improve the quality of life of the people of Louisiana. We are committed to understanding the complex issues at hand, learning the players, and affecting outcomes through testimony and relationships with lawmakers, advocates, and stakeholders.

Over the course of the session, we published our weekly Monday Matters newsletter where we tried to keep our readers up to date on all that was happening in the Capitol. The session was at times driven by partisan animosity and national media-driven narratives, but a lot of progressive legislation made it into law, and the legislature mostly avoided enacting hyper-controversial legislation that was passed in other states.

In Part One of this report, we broke down our work at the Capitol, the issues that headlined the session, and the work of our friends, allies, and partners in the progressive movement. In Part Two, we're going to look at some of the important bills that didn't make it all the way through the legislative process. Many of these bills are important to the future of Louisiana and will likely be reintroduced next year. We also want to highlight the organizations and advocates who are working diligently to move Louisiana forward.

VETO OVERRIDE SESSION

As of the publishing of this report, an unprecedented veto-override session appears likely. The two primary motivating factors that seem to be driving the call for such an extraordinary step are the Governor's vetoes of two bills: [SB 156](#), by [Sen. Beth Mizell](#), which would ban Trans kids from participating in school sports, and [SB 118](#), by [Sen. Jay Morris](#), which would allow Louisianans to carry concealed weapons without a permit or training.

We strongly oppose a veto-override session under these circumstances. Instead of focusing on the many very real problems facing our state, lawmakers are on the cusp of wasting hundreds of thousands of taxpayer dollars to fight over empty culture-war issues that are driven by national media narratives.

There aren't any cases of Trans youth trying to play school sports in Louisiana, and law enforcement officers have officially come out in opposition to overriding the SB 118 veto. We hope the legislature will come to its senses and instead spend their time helping their constituents and preparing for the truly important work that needs to be done on redistricting and in the regular legislative session next year.

RACIAL JUSTICE

Many of the issues left unsettled during the session were attempts to address systemic racism in our state. Louisiana's history of systemic racism, and the ways in which that history continues to infect nearly every facet of our society, will, sadly, take decades to undo. But we are encouraged by the continuing commitment by legislators and advocates to realizing that goal.

It's important to note that systemic racism doesn't mean that everyone involved in "the system" is racist, or acting with conscious racist intent. It does, however, acknowledge that the systems that govern our society were established and built up in a time when the lives of people of color were *legally* considered to be less valuable than the lives of white people, and that the ripple effects of that history continue to be felt to this day.

Dealing with those ripple effects is a moral imperative. It is also an economic imperative. By continuing to allow systems of oppression to operate, without examining their provenance and impacts, we make it much more difficult for a large segment of Louisiana's population to pursue their dreams. If Louisiana is to become an economic force, a moral leader, and a place where people and businesses want to locate and live, then we must confront our history and how that history continues to shape our society.

Addressing systemic racism cannot only be done by Black and Brown citizens, community leaders, and members of the Louisiana Legislative Black Caucus. The real work is engaging white leaders to help them understand what systemic racism is, how it hurts everyone in our state, and how to dismantle it. Otherwise, willful blindness and the fear of recognizing the impact of historical policy choices will continue to hold Louisiana back.

The work of addressing racism, understanding the systems that continue to undergird so many of the laws and create disparate results that foster inequities, needs to be the work of white people and people of color working together.

Louisiana Progress is committed to building a multi-racial, intergenerational movement to change the paradigm of our state by making fundamental progress in criminal justice, education, health care, workers' rights, and housing.

One of the reasons to be optimistic is the success of the Unanimous Jury Coalition and their efforts to pass a constitutional amendment to end the vestiges of Jim Crow laws as represented by the 10-2 Split Jury Provision in Louisiana law. The success of that 2018 statewide campaign, and the on-going success in criminal justice reform, indicate that when issues are framed in a way that people can understand them, change is possible.

CRIMINAL JUSTICE REFORM

Relief for people convicted by non-unanimous juries

In 2018, Louisiana voters overwhelmingly passed a state constitutional amendment to require unanimous jury verdicts in all felony cases going forward, but it didn't address retroactivity. That means there still isn't a legal remedy for people who have previously been convicted by non-unanimous juries, including options for new trials, parole, or humanitarian release.

[HB 346](#), by [Rep. Randall Gaines](#), would have allowed people convicted by non-unanimous juries--aka, Jim Crow Juries--to appeal their convictions. In order for the Louisiana Legislature to be more effective, the Governor and the Leadership of the House and Senate need to consider options for information and dialogue to help the members of the Legislature have some shared baseline of information.

Former Louisiana State Supreme Court Chief Justice Bernette Johnson, formerly incarcerated people, family members of people who are currently incarcerated on non-unanimous jury verdicts, and several legal advocates--led by the [Promise of Justice Initiative](#) (PJI) and [VOTE](#)--testified in the committee hearing about the need for a fair process to review the cases and provide options for retrial, parole, or release.

Unfortunately, the US Supreme Court ruling did not require Louisiana to create a legal remedy for the 1500 potential cases of Louisiana citizens convicted by non-unanimous juries prior to the passage of the constitutional amendment in 2018. Not a single Republican on the Judiciary Committee voted to provide a legal review process for those outstanding cases. In the first hearing on the bill, the bill author Rep. Gaines, the chair of the Judiciary Committee, did not ask for a vote and voluntarily deferred the bill pending the announcement of the case before the United States Supreme Court.

Given Louisiana's status as the most incarcerated place in the world, and our intolerable history of wrongful convictions, it is incumbent upon the legislature to create a path for people who have been convicted by non-unanimous juries to appeal those verdicts.

There could be hundreds of falsely convicted people sitting in our jails and prisons right now because of a mistaken non-unanimous jury verdict. The only way to know for sure is to give those people their *fair* day in court. We look forward to the ongoing fight by PJI and VOTE and many other advocacy organizations to address this systemic legal problem.

CRIMINAL JUSTICE REFORM

Qualified Immunity

[Rep. Edmond Jordan](#) introduced two bills that spoke directly to racial justice issues.

The first of those, [HB 609](#), would have reformed what's known as qualified immunity, a judicially created doctrine that shields government officials from being held personally liable or accountable for constitutional violations.

Last year, Rep. Jordan's attempt to reform qualified immunity led to one of the most powerful committee hearings in recent memory. That hearing spurred action, leading to this year's bill. This time around, the bill made it through committee, out of the House, and into the Senate. While it didn't make it through a Senate committee, the fact it got that far along represents substantial progress, and hopefully positions the issue for even greater success next year.

"Indentured Servitude"

Rep. Jordan's other bill was [HB 196](#), which would have removed language from the state constitution pertaining to slavery and indentured servitude--slavery and involuntary servitude are prohibited in the constitution "except in the latter case as punishment for a crime"--and HB 196 would have removed that line.

In the United States Constitution, the 13th amendment states, "Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist with the United States, or any place subject to their jurisdiction."

A national movement is growing to address the issue of deleting the reference to slavery and indentured servitude from the 13th amendment and from state constitutions. Already, the Utah and Colorado legislatures have voted to remove the language.

HB 196 was killed in the House Civil Law committee, but not before a vigorous debate and powerful testimony by formerly incarcerated people representing Decarcerate Louisiana. These advocates focused on the conditions of work in the agricultural fields of the Louisiana State Penitentiary, aka Angola. Incarcerated people in 2021 are treated much like enslaved people were treated prior to the 13th Amendment, earning as little as 20 cents an hour for back-breaking work.

The Next Frontier of Criminal Justice Reform

Much more work needs to be done in educating policymakers about the current state of the prison system, where lack of access to health care, harsh conditions, and inhumane treatment are the norm. As Louisiana pursues criminal justice reform, conditions in state prisons, parish jails, and for-profit prisons, like the use of solitary confinement, need to be addressed by the legislature.

Louisiana has the highest incarceration rate in the world, and the system disproportionately criminalizes Black and Brown, and especially lower-income Black and Brown. That criminalization, and the lasting impact and stigma from criminalization, reverberates throughout our society, making it harder for people to realize their full potential and feel free from fear over the State intruding into their lives.

CRIMINAL JUSTICE REFORM

Reforming our criminal justice system will help in so many different ways. A few of the most important reform measures, which would have helped Louisiana to alleviate that disproportionate racial impact but failed to pass, were:

- [HB 254](#), by [Rep. Richard Nelson](#), would have given people who were sentenced to life without parole as juveniles an opportunity to apply for parole. The [Louisiana Center for Children's Rights](#) led the campaign to pass this bill. The U.S. Supreme Court recently ruled that sentencing juveniles to life without parole was unconstitutional, but again, that ruling wasn't retroactive, so we need a state remedy for those who are already incarcerated under that statute. The Louisiana District Attorney's Association opposed HB 254, and was able to kill it in the House Administration of Criminal Justice committee.
- [HB 604](#), by [Rep. Ted James](#), was known as the Clean Slate Initiative. It would have automated record expungements for formerly incarcerated people, making it easier for them to find jobs, housing, and other basic necessities. Advocates, led by the [Justice & Accountability Center of Louisiana](#) (JAC), and stakeholders spent two years working on this bill, only to have it tanked at the last minute by the State Police, despite widespread, bipartisan support. Given Louisiana's incarceration rate, this is a crucial initiative for our state's people and our economy, and we hope to see it make it the final leg in 2022.
- [HB 68](#), by [Rep. Mandie Landry](#), would have built on a victory from last year that outlawed the use of solitary confinement for pregnant women to further restrict the use of solitary confinement. The effort was led, as always, by the [Louisiana Stop Solitary Coalition](#). Solitary confinement is torture. We need to recognize it as such legally, and ban its use in our jails and prisons.

WOMEN'S RIGHTS

Like racial injustice, Louisiana is far behind most other states when it comes to gender justice. And like racism, patriarchy is deeply embedded in most, if not all, of the systems that govern our state. For more than 50 years, women leaders in Louisiana have fought, unsuccessfully, to get state legislators to pass the Equal Rights Amendment. We continue to be far behind on equal pay, pay transparency, employment security for pregnant women, and basic fairness in the workplace.

Some particularly important women's rights issues that didn't make it through the process include:

Natural Hairstyles

There are numerous examples of discrimination based on natural hairstyles, which is a type of discrimination that is almost entirely used against Black and Brown women. A few bills were introduced this year to try to end that type of discrimination, with the organization [Citizen SHE](#) and other advocates testifying in support.

Despite the fact that this seems like a simple, common-sense school and workplace protection, the three bills attempting to make it law--[HB 382](#), by [Rep. Candace Newell](#); [HB 189](#), by [Rep. Tammy Phelps](#); and [SB 61](#), by Senator-turned-Congressman Troy Carter--all failed to pass. Unfortunately, the Republican women in the House Labor committees failed to appreciate the significance of this issue and did not demonstrate any awareness of the challenges women of color face in the workplace.

WOMEN'S RIGHTS

Equal Pay, Pay Transparency

The fight for women's rights and equality is another moral imperative that is wrapped up in our state's economic future. If we don't do more to close the gender pay gap, protect women from domestic abuse, and provide health and child care, then we will continue to see talented workers and successful businesses avoid Louisiana.

Domestic Violence

[HB 159](#), by [Rep. Malinda White](#), would have made the definitions of domestic violence uniform in the state's civil law code. This bill was worked on by the Law Institute, domestic violence advocates, nonprofit advocacy organizations, and law enforcement in order to clean up the domestic violence law and create uniform definitions. Yet, it was killed on the final day of the session.

Women's Health

- [HB 193](#) by [Rep. C. Denise Marcelle](#), would have created the Office of Women's Health within the Louisiana Department of Health. This bill was supported by the [Louisiana Center for Health Equity](#), the Legislative Agenda for Women, and many other advocacy organizations who focus on women's issue in their effort to address disproportionate health outcomes for women in Louisiana.
- [HB 468](#), by [Rep. Mandie Landry](#), would have provided a one-year Medicaid extension for new mothers. Medicaid funds more than 70% of the births in Louisiana, but it runs out just weeks after birth. New mothers need this Medicaid coverage extension so they can provide on-going health care for their babies.

WORKER'S RIGHTS

Sadly, big business has almost total control over worker's rights in Louisiana, and they have no interest in raising the minimum wage, mandating equal pay, or protecting pay transparency. Nonetheless, we'll continue to fight on these issues because they are so crucial to making Louisiana a better place to live. The Legislative Agenda for Women and all their member organizations have been working on these issues for years.

The two most notable attempts to address these issues were both introduced by the Chairwoman of the House Labor & Industrial Relations committee, [Rep. Barbara Carpenter](#). They were:

- [HB 245](#), which would have addressed pay transparency and employment practices related to wage history, wage disclosure and retaliation.
- [HCR 77](#), which would have created a task force to study minimum wage. Apparently even a study task force was a bridge too far for this legislature, with the full House rejecting this concurrent resolution to simply look into the matter.

Another notable bill in the worker's rights arena was [HB 67](#), by [Rep. Mandie Landry](#), which would have largely decriminalized sex work. [Women with A Vision](#) was the driving force on this issue, helping to orchestrate testimony from several women who are currently engaged in professional sex work. This legislation was brought on behalf of these women to reduce their harassment at the hands of police and reduce the danger of this work.

TASK FORCES

As is the case with every legislative session, there were numerous task forces created to study a wide range of issues. We’ve assembled a list of task forces that we will be tracking below:

EDUCATION

HCR 18 Rep. Emerson	EARLY CHILDHOOD: Requests that the State Board of Elementary and Secondary Education study and report on processes used to collect, investigate, track, monitor, and disclose complaints and deficiencies relative to child care providers
HCR 39 Rep. Mincey	TEACHERS: Creates a task force to study issues related to teacher shortages in Louisiana
HCR 45 Rep. Bagley	EXCEPTIONAL PERSONS: Requests a study concerning a potential system for tracking the location of children with developmental and intellectual disabilities
HCR 56 Rep. Freeman	HEALTH/CHILDREN: Requests that the State Board of Elementary and Secondary Education study health and safety best practices for use of school-issued digital devices
HCR 28 Rep. Glover	CURRICULA: Requests that the Bd. of Regents and the State Bd. of Elementary and Secondary Education study the possibility of allowing a course in African American Studies to satisfy certain curriculum requirements

CRIMINAL JUSTICE

HCR 15 Rep. Hughes	JUVENILES: Requests the Juvenile Justice Reform Act Implementation Commission to study local education agency budgets
HCR 97 Rep. Jones	PARDON/PAROLE: Requests a study of case law and best practices to better understand other approaches to parole
HCR 101 Rep. James	CRIMINAL/SENTENCING: Creates a commission to study the procedures for processing felony sentences and calculating incarceration release dates of persons in the custody of the Department of Public Safety and Corrections
HCR 89 Rep. Marcelle	CORRECTIONAL FACILITIES: Requests a study of the health and safety conditions of Louisiana prisons and jails

TASK FORCES

Healthcare

HCR 34 Rep. Butler	MEDICAID: Requests a study regarding potential means of financing dental care for adult residents of intermediate care facilities
HCR 105 Rep. Duplesis	MENTAL HEALTH: Establishes the Louisiana Maternal Mental Health Task Force for the purposes of advancing education and treatment and improving services relating to maternal mental health
HCR 121 Rep. D. Miller	HEALTH CARE/PROVIDERS: Urges and requests the La. Department of Health to convene a healthcare workplace violence task force to advance the priorities expressed in HCR No. 60 of the 2019 R.S.

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LESSONS FROM THE SESSION

Between the release of the police body cam footage of the Ronald Greene murder by members of the Louisiana State Police Troop F, the controversies over “Critical Race Theory” and teaching about racism in school, and a host of other race-related topics, racial tension and animosity ran high during the session. That not only speaks to the situation among legislators, it is instructive for the current state of our society.

Legislators should lead on confronting systemic racism, not on trying to bury the issue. Yet, sadly, many of them tried to do just that.

We also have a long way to go in creating equality for all of our citizens. Women, low-income earners, and people with disabilities get the short end of the stick far too often in our state, and the legislature often refuses to do anything to fix those inequalities.

Politics, of course, often get in the way. Certain legislators get so wrapped up in culture war issues that are driven by national media narratives that they ignore or refuse to address the very real, very pressing problems that we face in Louisiana. Instead of working to fix our poverty rate, which is among the worst in the nation, or our poorly ranked schools, or our poor health outcomes, legislators fight over issues that have no impact on people’s lives or that only serve to further divide us. That is no way to govern.

More work left to do

While Part Two of our report focused on the work left to be done, it’s important to celebrate this year’s many progressive victories, as we did in Part One. We have been able to move the ball forward on so many important issues, while also avoiding some of the terrible regressive policies we’ve seen pass in many other states. That’s a testament to the hard work of the legislators and advocates presented in this report, as well as the work of citizens who decided to do what they could to fight for what they thought was right.

So take a victory lap. Then start getting ready to do it all again. A redistricting special session is likely to take place in February 2022, almost immediately followed by the 2022 regular legislative session. They’ll get here before you know it, and there’s still so much more work left to be done.

CLOSING

In order for the Louisiana Legislature to be more effective, the Governor and the Leadership of the House and Senate need to consider options for information and dialogue to help the members of the Legislature have some shared baseline of information.

Another opportunity might be to have the Louisiana Department of Health and the Office of Women’s Policy conduct webinars on parish level data in key indicators from the State Health Assessment Plan, the Louisiana Human Development Index and the Annie E. Casey Foundation Kids Count data. One of the most apparent lessons from the Legislative Session, was that there was not a general agreement on data about Louisiana and the real life issues faced by many Louisiana families living in poverty without access to quality education, health care, jobs and adequate housing.

The United Way ALICE Report is great resource to explain the financial fragility of Louisiana families based on income and region. Unfortunately, there seems to be a general default to thinking poverty means African Americans, when in fact more white Louisiana families are living in poverty.

Next Steps for Louisiana Progress

In this legislative session, Louisiana Progress focused on Clean Water, Clean Elections and Clean Cannabis. Louisiana Progress will continue to work on these issues and expand our focus in Clean Elections to address Campaign Finance Reform, Election Accountability, Legislative Compensation and Term Limits.

Louisiana Progress will continue to focus on criminal justice reform and the implementation of the Clean Cannabis plan and move toward legalization and appropriate taxation to encourage a criminal justice investment strategy.

Louisiana will only make progress in education, health care, housing and criminal justice if we focus with intentionality on improving the lives of all our citizens and moving past the fault lines of race, region, and class. By working with nonprofit organizations, advocates, allies, the faith and community leaders and elected officials, Louisiana Progress is committed to solving problems to move the state forward. Our goal is make Louisiana the

