

# Unmasking Anti-Masking Laws

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**Breaking down laws that  
criminalize wearing masks**



These educational materials do not constitute legal advice or encouragement to take action. Contact a local attorney for additional questions.



# What are Anti-Masking laws?

At least 18 states & Washington D.C. have laws that **criminalize wearing masks** in some form.

Lately, several states have created new laws, or invoked long-untouched old laws, **in order to discourage pro-Palestine activism.**

Anti-masking laws also **endanger immuno-compromised people** by further stigmatizing the wearing of masks to prevent the spread of COVID-19 and other diseases.

# History of Anti-Masking Laws

Anti-masking laws began in the '50s & '60s **against the KKK**, who would mask and commit racial terrorism.

These laws stayed on the books in many states, unenforced for decades, like many other old criminal statutes.

Beginning in 2020, masking became highly politicized in the U.S. in new ways.

COVID-19 disproportionately killed Black people and disabled people. **Masking is critical to prevent the spread of COVID-19.**

Many masking advocates also called for **systemic changes** like universal access to healthcare & housing.

**Anti-masking became part of a white nationalist agenda.**

Now, state actors are **co-opting anti-masking laws** to target pro-Palestine activists who wear masks at demonstrations.

## Anti-Masking laws will vary from state to state.

In **South Carolina**, adults are not allowed to wear masks in public except for holiday costumes or theater productions, employment, or gas masks.

In **New Mexico**, anti-mask laws require that the person wearing the mask intend to deprive another person of their Constitutional rights.

In **New York**, Gov. Kathy Hochul has proposed a new ban on masks at protests & on the subway.

**North Carolina** just passed an anti-mask bill that gives defendants a higher sentence if they are convicted of a crime in which they were wearing a mask. The bill allows people to wear medical grade masks if worn for health reasons.

**Research the laws in your state to see if there are any restrictions on masking!**

# Challenge Anti-Masking Laws!

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Don't give into fear and keep expressing dissent.

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## Examples of possible constitutional challenges:

### 1 **freedom of association**

- Mask laws deprive wearers of the anonymity needed to express their views
- If protestors cannot remain anonymous, they will face harassment

### 2 **freedom of speech**

- Masks constitute symbolic expression
- Masks that have messages written on them, or masks representing an idea, such as a keffiyeh, should be protected

### 3 **equal protection under the law**

- Laws that make exceptions for some (Halloween, medical masks), but not for political masks, impermissibly violates equality under the law

**Anti-Masking laws are a clear attempt to criminalize activism and disregard disabled people.**

**We will not be intimidated!**

**We cannot normalize the criminalization of activism & mutual aid!**



**We must challenge anti-masking laws in the courts and in the streets.**