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February 16, 2005

Utah House of Representatives
Utah State Capitol
Salt Lake City, Utah 84114

Re: House Bill 131, Access to Health Care Facilities and Places of Worship

The American Civil Liberties Union of Utah urges against passage of House Bill 131, Access to Health Care Facilities and Places of Worship, because it would impose an unconstitutional, statewide ban on free speech. Specifically, H.B. 131 would limit demonstration and leafleting activities near health care facilities and places of worship by creating an eight-foot floating buffer zone around patients or worshipers who are within a 100-foot buffer zone extending from any entrance door to either type of building.

Peaceful picketing and leafleting are expressive activities protected by the First Amendment. When such activities take place on public sidewalks or rights of way, the government has only a limited ability to regulate them. While the state has a legitimate interest in protecting the rights of citizens to exercise the right to worship and the right to reproductive freedom, H.B. 131 goes far beyond that interest. In seeking to protect the rights of patients and worshipers, it would impose a broad, unconstitutional restriction on free speech for those who wish to express their beliefs through protesting and leafleting.

H.B. 131 is modeled after Colorado legislation passed in 1993, which was aimed specifically at health care facilities. The Colorado legislation, upheld by the United States Supreme Court in 2000, was passed after a protracted history of volatility and conflict stemming from protests on both sides of the abortion issue. The Supreme Court was careful to examine the unique series of events that took place throughout Colorado before it upheld the legislation, which was a last resort based on the extensive record of intimidation and violence.

There is no similar history of conflict to legitimize such a restriction in Utah. The bill sponsor, Representative Aagard, indicated to the House Committee that the bill was necessary in light of events that occurred near Salt Lake City's Temple Square about eighteen months ago. No other events were cited that would support such a sweeping restriction on free speech activities. Indeed, no events at health care facilities were cited, and the Salt Lake City incident cited was unique to the intersection of downtown Salt Lake City and the worldwide LDS Church conferences. Additionally, the incident has since been dealt with through local government action. The Salt Lake City Mayor's Office, the ACLU of Utah, local police, and others worked diligently to create, enact, and enforce restrictions to prevent violence around this event. Importantly, Utah's Federal District Court recently upheld these restrictions as reasonable time, place, and manner restrictions, that are content-neutral and narrowly tailored to the unique circumstances. The City's work alone makes H.B. 131 unnecessary.

We urge you to vote against H.B. 131. Not only is the proposed legislation unlikely to withstand judicial scrutiny, but it also reaches far beyond legitimate limits and thereby threatens to violate everyone's First Amendment rights. Please feel free to contact me at 801.521.9862, ext. 103, if you have any questions.

Respectfully,

Margaret Plane
Staff Attorney