

# ACLU on the Hill

Our team tracked 100+ bills during the 2019 Utah Legislative Session, while focusing on these nine ACLU of Utah priorities.

## #1. Protecting Digital Privacy

*H.B. 57 Electronic Information or Data Privacy*

This landmark bill makes Utah the first state to add warrant protections for digital information stored by third parties like cell phone carriers and cloud-based servers. This means police need a warrant to search data stored on a remotely-located Google Drive or Dropbox account, just like they would for a computer in your home. This innovative law builds on the U.S. Supreme Court's 2018 decision in *Carpenter v. U.S.*, an ACLU case which required warrants for location-based data. H.B. 57, however, goes further to protect personal data stored on third-party servers.

## #2. Standing Firm on Reproductive Freedom

*H.B. 136 Abortion Amendments*

*H.B. 166 Down Syndrome Nondiscrimination Abortion Act*

This year the Utah Legislature passed two anti-abortion bills. However, we are confident that neither bill will become law. To stop H.B. 136, we joined the Planned Parenthood Association of Utah to file a lawsuit on April 10 in federal district court to prevent the bill's 18-week abortion ban from taking effect (see, "See You in Court, Again," page 3). Laws that ban abortion prior to viability clearly violate a person's constitutionally protected right

to an abortion. When the Utah Legislature passed a similar law in the early 1990s that banned abortions after 20 weeks, the U.S. Court of Appeals for the Tenth Circuit ruled it unconstitutional. No lawsuit is needed to block H.B. 166 because its block on abortions solely due to a Down Syndrome diagnosis won't take effect until a higher court like the U.S. Supreme Court or the Tenth Circuit specifically allows it.

## #3. Fixing Immigrant Justice... One Day at a Time

*H.B. 244 Misdemeanor Sentencing Timeline Clarifications*

Sometimes a small change can make a dramatic difference. H.B. 244 did exactly that by reducing the maximum possible sentence for a misdemeanor in Utah by a single day—

from 365 days to 364 days. The loss of one day protects Utah immigrants and refugees from federal immigration laws that consider misdemeanor crimes with 365 days of potential jail time the same as a felony,

triggering automatic deportation for a crime as minor as shoplifting. Working closely with our partners at the Refugee Justice League, we met with multiple legislators to explain the positive impact of this bill, enabling it to pass the House and Senate unanimously. Ranked as one of our top victories in 2019, H.B. 244 closes a gap in the complex web of immigration policy that will improve the lives of thousands of Utah residents.

## #4. Passing Automatic Expungement

*H.B. 431 Expungement Act Amendments*

Years after someone completes a jail sentence or parole, their criminal record could rise up again to deny them housing, a job, or a chance to earn a degree. This bill alleviates these roadblocks by creating a pathway for automatic erasure of low-level criminal records after a set amount of time. This simple fix, championed by criminal justice advocates across the political spectrum, acknowledges the rehabilitative goal of the criminal justice system and also aligns with Utah's 2015 Justice Reinvestment Initiative.

## #5. Holding the Line on Voting Rights

*H.B. 133 Initiative Amendments*

Before the Legislative Session, the ACLU of Utah ranked "protecting ballot access" as our

## Talking Points: How We Delivered Our Message



Jason Groth

"This bill removes local authority from city and county governments to address policing needs and community feedback situated in a unique local context."

Testimony against H.B. 415 (Local Law Enforcement Structure and Governance Amendments), which restricted civilian review boards



Marina Lowe

"In addition to being completely out of step with science, medicine, and respect for basic human dignity, Rep. Nelson's bill is unconstitutional."

Press release on H.B. 153 (Utah Vital Statistics Act Amendments)



Marina Lowe, Jason Groth, and Jason Stevenson in action at the Utah Capitol.



"[this] new law is just the opposite—a nuanced piece of legislation that spans the twin chasms of criminal justice and immigration reform, while improving the lives of thousands of Utah residents."

Op-ed on H.B. 244 (Misdemeanor Sentencing Timeline Clarifications)



Jason Stevenson



John Mejia

"Even as we recognize the harm done by hate crimes and the role for some government efforts to confront them, our unvarnished view of the criminal justice system cautions us against supporting lengthier prison or jail sentences to punish hate crimes."

Blog post on S.B. 103 (Victim Targeting Penalty Enhancements)

top legislative priority. Fortunately, lawmakers did not meddle with Election Day Registration (EDR), a 2018 law that contributed to a substantial increase in voter turnout in last year's midterm elections. Legislators also sidestepped a direct repeal of Proposition #4, the anti-gerrymandering ballot initiative supported by the ACLU of Utah. However, the legislature did pass several bills that will increase barriers to the ballot initiative process, including H.B. 133, which delays the implementation of future voter-approved initiatives for many months after an election. We will continue to monitor legislative efforts to repeal Proposition #4 in future sessions.

#### #6. Protecting Due Process for Students

*H.B. 120 Student and School Safety Assessment*

*H.B. 373 Student Support Amendments*

Proposed as a response to recent school shootings, H.B. 120 entered the session with strong support to fund security infrastructure and increased staffing. But the ACLU of Utah and the Disability Law Center raised concerns that the bill's poorly-defined and regulated "threat assessment" teams would widen the school-to-prison pipeline to pull in more students of color and those with disabilities. By the end of the session, we had stripped away the most dangerous aspects of this bill, while increasing funding in H.B. 373 to pay for more mental health providers serving Utah students.

#### #7 Being Smart About Justice

*H.B. 293 Plea in Abeyance Amendments*

*H.B. 189 Theft Amendments*

We defeated two bills that sought to permanently dangle the threat of enhanced punishments over the heads of people pleading guilty to, or convicted of, low-level crimes. Using his experience as a public defender, Jason Groth, the ACLU of Utah's Smart Justice Coordinator, testified in committee hearings about how these bills reinforced the antiquated idea that the purpose

of justice is to extend retribution for years after a person completes a sentence. Groth also explained how these bills weakened the tools prosecutors can use to resolve low-level cases, leading to higher court costs and incarceration rates.

#### #8. Standing up for Transgender Utahns

*H.B. 153 Utah Vital Statistics Act Amendments*

We used in-person lobbying and social media to derail this legislation that would have denied transgender Utahns the ability to change their sex on a birth certificate. Comparing H.B. 153 to North Carolina's infamous "bathroom bill," we explained how it deliberately and unnecessarily targeted transgender, non-binary and intersex individuals. Citing recent court decisions from Idaho and Puerto Rico, we also flagged it as unconstitutional. When the bill was assigned to a committee hearing, our team was prepared to intensify our opposition—including a joint social media campaign with the National ACLU—before the pressure by our lobbyists and other groups convinced the sponsor to pull the bill. Next session we hope to support legislation making it easier—not impossible—to change gender on Utah birth certificates.

#### #9. Walking the Line on Hate Crimes

*S.B. 103 Victim Targeting Penalty Enhancements*

Many people were surprised to learn the ACLU of Utah took a neutral position on this year's high-profile—and ultimately successful—hate crimes bill. Due to our long-standing opposition to mass incarceration, and our belief that racial bias embedded in the criminal justice system results in uneven prosecutions, we could not support enhanced punishments for specific crimes. When asked by the Senate sponsor to testify on the bill, Marina Lowe noted these concerns, but also indicated our support of the accompanying resolution that protected unrelated free speech from being used as evidence of a hate crime. We know that hate and racism exist in our society, and we condemn crimes that strike at the sense of security and equality of all members of the targeted group. But lengthier jail sentences will not reduce or prevent crimes motivated by hate.

Watch all seven videos of "ACLU on the Hill"—our weekly recap of Marina Lowe's lobbying efforts during the 2019 Legislative Session.



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