

ACLU OF UTAH

LEGISLATIVE WRAP-UP

2021



Passed



Failed



Offense



Defense



Comeback



Will Return



Big Win

Equality

S.B. 214 - OFFICIAL LANGUAGE AMENDMENTS



For 20 years, Utah's "English-Only" law has harmed the state's immigrant and Spanish-speaking populations and impeded local governments from communicating with the public and responding to their needs. During the recent pandemic, this discriminatory law barred state agencies from funding translations of public health messages, forcing hard-pressed nonprofits to step in as unpaid interpreters.

While not the complete repeal that many advocates wanted, S.B. 214 removes the designation of Utah as an "English Only" state and eliminates all restrictions on use of funding and "official communications" that exist, leaving only the notation that English is the official language of the state of Utah. We look forward to repealing this final legacy in future years.

S.B. 80 - UTAH ANTIDISCRIMINATION ACT AMENDMENTS



Known as the CROWN Act, or "Create a Respectful and Open World for Natural Hair," this bill would have amended the Utah Antidiscrimination Act to provide protection

for unchangeable traits and hairstyles like "braids, locks, afros, curls, and twists" historically associated with race. After supportive testimony from several women who described the discrimination they faced for having natural hair styles, the bill failed to clear a Senate committee. The two Republican senators who voted against the bill over concerns it would alter the definition of race also acknowledged learning a lot from the testimony. Sen. Kitchen said he was encouraged by the discussion and vowed to bring the bill back for future consideration.

H.B. 278 - NAME CHANGE PROCESS FOR DIXIE STATE UNIVERSITY



Since 1916 the term "Dixie" has been associated with the name of Southern Utah's largest education institution, now called Dixie State University. Facing increasing pressure from students, administrators, and some alumni, the school sought legislative approval to change its name, setting up a turf battle between the House and Senate. The skirmish ended with Senate approval of this bill to authorize the university's board of trustees to submit a new name to lawmakers by November. The bill also set aside \$500,000 to fund a Heritage Committee to preserve the legacy of the university and its region. While the ACLU of Utah did not engage directly on this bill, we support all efforts to acknowledge and replace racism with efforts towards inclusion and equality.

First Amendment

H.B. 72 - DEVICE FILTER AMENDMENTS



Attracting attention both inside and outside of Utah, this bill requires manufacturers to automatically turn on a content filter when an electronic device like a tablet or smartphone is activated in Utah or face a \$10 fine for each violation. Despite our testimony that the bill unconstitutionally overregulates the tech industry in a way that infringes upon the general public's First Amendment rights to freely access the Internet, it passed the Legislature and awaits action by the Governor. One factor encouraging lawmakers to ignore the bill's obvious constitutional flaws is a provision to delay its activation until at least five states besides Utah pass similar legislation.

S.B. 228 - ELECTRONIC FREE SPEECH AMENDMENTS



Similar to H.B. 72, this bill, which sets limits on social media companies who moderate or block content on their platforms, attracted strong criticism from tech companies and First Amendment experts. We joined them to argue that the government cannot tell private companies, including social media platforms, what they can or can't publish due to section 230 of the federal Communications Decency Act. By requiring social media corporations to set up a special notifications and appeals processes for account holders who are suspended or removed, this bill could discourage platforms from halting online voter suppression and even credible threats of violence if they relate to a political viewpoint. Even worse, this bill would effectively authorize the government to force private platforms to carry and distribute speech. Perhaps sensing the shaky legal ground for this bill, the sponsor delayed its activation date until July 1, 2022 to give time for its future repeal.

Legal Reform

H.B. 143 - DRIVER LICENSE SUSPENSION AMENDMENTS



After failing in the final minutes of last year's session, this commonsense legislation to remove driver's license suspensions as a consequence for not paying fines or missing court dates finally passed this year. This is a big deal because 30,000 Utahns lose their licenses to operate a motor vehicle every year for these non-driving infractions, which makes it even harder to hold a job, pay fines, and attend court. Plus, we learned the state was collecting \$1 million a year in license re-instatement fees. This successful bill was top priority of the ACLU of Utah's Campaign for Smart Justice.

H.B. 290 - PROBATION AND PAROLE AMENDMENTS



The data that inspired this bill is alarming. In 2017, almost 80% of people entering Utah prisons were on probation or parole. And about half of those people went to prison for "technical violations," which are errors like missing a probation appointment or not getting a job. This bill codifies the obligation for the state to examine probation and parole policies to help Utahns successfully complete their

community supervision requirements and prevent them from returning to jail for simple mistakes and common struggles. In addition, this bill adds a "representative of an organization that specializes in civil rights or civil liberties" to the state's Sentencing Commission to ensure that the rights of incarcerated individuals are represented in future policy discussions. Like H.B. 143, this bill was a top priority of the Campaign for Smart Justice.

H.B. 220 - PRETRIAL DETENTION AMENDMENTS S.B. 171 PRETRIAL DETENTION REVISIONS



Two bills clashed in the fight to scrap or save 2020's bail reform legislation, which allowed judges to consider a person's ability to afford bail as a way to keep low-risk and indigent defendants from being detained awaiting trial. In the House, H.B. 220 leveraged criticism of bail reform implementation to push for full repeal of last year's bill and a resumption of the two-tiered justice system that keeps impoverished Utahns detained because they cannot pay bail. In response, Sen. Weiler introduced S.B. 171 in the Senate to replace full repeal with a task force to examine the issue before recommending new legislation. In the end, the House bill passed both chambers, smothering a promising bail reform effort that could have been fixed instead of scrapped.

Police Reform

H.B. 245 - FORCIBLE ENTRY AND WARRANTS AMENDMENTS



Spurred by the 2020 killing of Breonna Taylor in Louisville, as well as similar incidents in Utah, Rep. Hall's bill started strong with new limits on "no-knock" and "quick-knock" raids by law enforcement while executing warrants. The bill restricted these surprise raids to situations with an "existing, imminent threat of serious bodily injury or death to a person inside the building" and required three separate announcements and a 30-second pause before breaking down a door. Plus, it mandated most operations to occur during daytime hours. But even though Rep. Hall amended the bill several times to weaken these restrictions to appease law enforcement lobbyists, the bill failed twice to clear its first hurdle in a House committee hearing and never moved forward.

H.B. 74 - MUNICIPAL POLICE OVERSIGHT AMENDMENTS



In 2019 the Utah Legislature passed H.B. 415 to restrict the ability of Utah cities to give real power to civilian police review boards. H.B.74, which failed to move forward during its only committee hearing, would have repealed the 2019 law and restored local control to mayors and city councils to let these boards review or approve police rules, budgets, and hiring decisions. Following a summer of protests over the killing of George Floyd and widespread examples of police brutality, common-sense reforms like increasing oversight and accountability over local police agencies received a lot of attention before the legislative session. But neither H.B. 74, nor a less comprehensive bill proposed in the Senate, passed the legislature this year. One element that hindered passage of H.B. 74 was its prohibition on board members being or having family members who are current or former law enforcement officers. Removing that limitation, we hope, will increase support for this bill in future sessions.

H.B. 345 - SCHOOL RESOURCE OFFICERS AMENDMENTS



The presence of police officers in public schools increases the likelihood of minor disciplinary actions spiraling into criminal charges, especially for students of color. Removing or limiting the role of these School Resource Officers (SROs) is a major goal of the ACLU of Utah and Rep. Hollins, who has sponsored or supported prior bills on this topic. The initial version of H.B. 345 allowed SROs in Utah schools only if they were restricted to high schools, added training on constitutional searches, and were defined by an official policy, among other limits. But revisions to the bill removed many of these restrictions, leaving only new training requirements for SROs to 1) develop supportive relationships with students, and 2) learn the legal rules for searching and questioning students on school property. We look forward to supporting additional restrictions on SROs in future years.

H.B. 158 - JUVENILE INTERROGATION AMENDMENTS



Most people know that the phrase that begins "You have the right to remain silent," is commonly called the Miranda Warning. Fewer people know that the requirement for police to advise suspects of their rights resulted from a landmark 1966 decision by the U.S. Supreme Court on behalf of Ernesto Miranda of Arizona, who was represented by the ACLU. And almost no one knew that juveniles in custody in Utah could be questioned by police without being informed of their rights or having a parent or guardian present. Rep. Judkins drafted H.B. 158 to fix those gaps in juvenile justice. Now police are required to advise in-custody minors of their rights before questioning, which includes the right to have a parent or guardian present.



Jason Groth and Jason Stevenson discuss legislation virtually during a broadcast of "ACLU on the Hill" during the 2021 Session

Privacy

H.B. 243 - PRIVACY PROTECTION AMENDMENTS



Spurred by the state's high-profile separation from the Utah-based surveillance software company Banjo, this bill establishes oversight and guidelines to ensure that the personal data and privacy of Utah residents is protected when the state signs contracts with private technology firms. First, the bill creates a state data privacy officer appointed by the governor with the authority to stop the use of technologies or policies that fail to meet minimum standards. Second, it also forms a 12-member Personal Privacy Oversight Committee, under the direction of the Utah State Auditor, which must include "one member with experience in civil liberties law or policy."

H.B. 251 - ELECTRONIC LOCATION AMENDMENTS



This bill was initially cast as first-in-the-nation legislation to limit law enforcement from obtaining a "reverse location" or "reverse keyword" search warrant, which casts a broad net to capture electronic data from numerous people at a specific time or place while searching for a suspect. But a re-write of the bill during its first committee hearing weakened almost all of these restrictions and actually gave law enforcement more leeway in Utah to pursue these electronic fishing expeditions. Unable to support the bill anymore, we were relieved when the Senate failed to consider it during the last days of the session.

Voting Rights

H.B. 338 - SCHOOL DISTRICT VOTER ELIGIBILITY AMENDMENTS



The idea of letting local school boards decide if 16- and 17-year-olds can vote in school board elections gained significant traction during the 2021 Legislative session, but failed to pass on the House floor in a 20-55 vote. Led by the persuasive testimony of West High School student Arundhati Oommen, lawmakers learned that Utah teens can work, pay taxes, and own a business — but can't vote for the school boards who exercise control over their education. Ms. Oommen also listed the many benefits of this legislation, including promoting voter participation earlier to make it a habit for later in life. ACLU of Utah Voting Rights Manager Nikila Venugopal worked closely on this legislation and expects to see it return for a future session.

H.B. 442 - ELECTION INTEGRITY AMENDMENTS



Voting Rights Manager Nikila Venugopal worked with coalition partners to propose this legislation that would have both instituted robust protections for voters with mismatched signatures on mail-in ballots and made the correction process (called "curing a ballot") more transparent and accessible. To vote by mail in Utah, voters must sign the outside of the ballot envelope to prove their identity. County clerks then check this

ballot signature against the signature they have on file with your voter registration record. If the signatures don't match, clerks can reject the ballot. Currently, the clerk is required to inform voters if a signature mismatch occurs and provide a method to cure the ballot. However, clerks typically reach out via postcards, which voters can miss or throw away. Plus, no statewide standards exist for clerks to determine when a signature does or doesn't match. H.B. 442 would have fixed these gaps in Utah's vote-by-mail system if it had passed, but we are confident this common-sense legislation will return in future sessions.

H.B. 70 - BALLOT TRACKING AMENDMENTS



Voters in Utah can currently track the status of their mail-in ballot by going to the website vote.utah.gov. However, many Utahns are unaware of this service or unable to access the website. H.B. 70 instituted a new tracking system that allows voters to opt in to receive text or email alerts providing automatic updates on the status of their ballot. This new system mimics the shipping and delivery updates that Utah consumers rely on for online purchases. Proposed by new Cache County Clerk Jess Bradfield and sponsored in the legislature by a representative from Logan, this bill will increase trust and transparency in Utah's largely vote-by-mail election system. Voting Rights Manager Nikila Venugopal testified in support of this bill, and we look forward to voters being able to take advantage of this easy notification system.

Reproductive Rights

H.B. 231 - FETUS TRANSPORT RESTRICTIONS



For the first time in recent memory, no new abortion restrictions passed the Utah Legislature this session. This bill, which was never heard in a committee, attempted to target Planned Parenthood of Utah by prohibiting the movement of fetal remains from abortions and miscarriages across state lines for any purpose other than burial. But this bill also impacted dozens of Utah clinics, hospitals, and medical providers by restricting the transfer and analysis of remains from a miscarriage by a pathologist, a requirement of current Utah law. Effective lobbying by medical associations, hospitals and physicians kept this bill bottled up in the House Rules committee until the session ended.

H.B. 253 - ABORTION AMENDMENTS



Last year, Rep. Christiansen sponsored a bill to force women to undergo invasive transvaginal ultrasounds before an abortion, causing the six women in the Senate—Democrats and Republicans—to walk off the floor in protest. The ultrasound bill eventually failed in the House. This year, Rep. Christiansen returned with a bill to increase the number and degree of the informed consent requirements before receiving an abortion in Utah, including a provision that required interactions to be “face-to-face” during the pandemic. Other Republican lawmakers, however, appeared to tacitly agree with survey results from last year that indicated 80% of Utahns believe the state does not need additional restrictions on abortion, and H.B. 253 was never assigned to a committee for a hearing.

Transgender Rights

H.B. 302 - PRESERVING SPORTS FOR FEMALE STUDENTS



The most talked-about bill during the 2021 Legislative Session also targeted the most vulnerable people in our state: transgender youth in public schools. The initial version of the bill sought to ban transgender youth from participating on both college and K-12 sports teams, but later revisions exempted collegiate teams to avoid clashing with NCAA policies and sparking boycotts. While Rep. Birkeland attempted to leverage her experience as a basketball referee to argue that her bill protected women’s sports, testimony by transgender allies and their family members proved the bill’s real focus to be discrimination. In addition, the ACLU’s Marina Lowe argued the bill violated the Constitution’s Equal Protection clause and would likely trigger multiple lawsuits. Although H.B. 302 passed the House, it was held by Senate committee and never moved forward again. Just as North Carolina’s infamous “bathroom bill” was never about toilets, H.B. 302 was never about women’s sports.

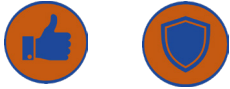
H.B. 92 - MEDICAL PRACTICE AMENDMENTS



Mirroring legislation proposed in prior sessions and introduced in other states, this bill would have blocked transgender children from accessing essential medical care that has been affirmed by every major medical and mental health organization in the nation. Our lobbying team worked to defeat this bill by following the lead of key allies like Equality Utah and Transgender Education Advocates (TEA) of Utah, as well as a phalanx of medical professionals and family advocates. Together, we raised enough objections against H.B. 92 in its single committee hearing to relegate it to the Rules committee for the rest of the session.

Protest

H.B. 58 - RIOT AMENDMENT



This session, lawmakers proposed several bills to enhance penalties for people arrested at protests, but this bill was the only legislation that passed. Based on rumors that people protesting police violence would be arrested, booked, and then released back to the street to continue exercising their right to free speech, this bill requires a person arrested for rioting to appear before a judge before being released from custody and pay restitution. The bill also narrowed the definition of “riot” to limit the number of people who could be charged under this section.

S.B. 138 - VIOLENCE, DISORDER, AND LOOTING ENFORCEMENT PROTECTION ACT



Called the “license to kill” bill because the original version shielded drivers from criminal liability for running over protestors while leaving the scene of a protest, S.B. 138 was one of the most dangerous bills proposed during the 2021 session. It also threatened local police agencies, e.g., Salt Lake City Police Department, for not cracking down on protestors by creating a way for individuals to sue local governments for not protecting their property during a riot. Despite several revisions to remove the most vindictive provisions of the bill, such as denying state benefits like healthcare and food stamps to people convicted of rioting, it still failed to clear the House in the final days of the session due in part to intense lobbying by the ACLU of Utah and our allies.



The ACLU of Utah’s Sydni Makemo and Nikk Dejong discuss Probation and Parole Amendments (H.B. 290) with Pastor Shawn Clay

Marina Lowe and Jason Stevenson discuss legislation virtually during a broadcast of “ACLU on the Hill” during the 2021 Session

