

2011 Legislative Report

MARCH 27, 2011

During the 2011 session the ACLU of Utah:

- Was responsible for getting an important piece of legislation passed: a bill to protect the right of domestic violence victims to be free from eviction or other harassment for calling law enforcement.
- Was instrumental in halting or neutralizing harmful legislation on at least 10 occasions. Tracked and engaged in lobbying efforts on more than 50 bills.
- Responded to numerous requests by lawmakers, government officials, community partners and the media for information as to the constitutionality of bills.
- Attended more than 20 committee hearings.
- Testified against or in support of bills in 13 committee hearings.
- Distributed numerous letters, fact sheets and/or reports to members of the Utah Legislature regarding the constitutionality of proposed legislation, including 6 letters to the governor urging veto or signature.
- Participated in ongoing meetings with and mobilized coalition groups to influence potential legislation in the following areas: immigration, criminal justice, racial justice, reproductive freedoms and voting rights.
- Hosted 2 citizen lobby trainings.

[Immigrants' Rights](#) | [Reproductive Freedoms](#) | [Racial Justice](#) | [Participatory Democracy](#)
[LGBT & AIDS](#) | [Privacy & Technology](#) | [1st Amendment](#)
[Criminal Justice/4th Amendment](#) | [14th Amendment/Due Process](#)

IMMIGRANTS' RIGHTS

The issue of immigration took center stage during the legislative session with no fewer than 16 immigration related bills introduced. The discussion centered on enforcement and guest worker bills. The end result was the passage of an enforcement only bill, H.B 497, along with work permit and guest sponsorship bills, H.B. 116, H.B 466, and H.B 469. The ACLU of Utah finds the passage of the laws extremely concerning. The enforcement only bill encourages racial profiling while the “benefits” in the work permit and guest sponsorship bills are illusory and unconstitutional - states do not have the authority to grant immigration benefits.

The ACLU of Utah testified during the legislature, vocalizing our opposition to the bills. In addition, letters were sent to the Governor asking for a veto. Nonetheless, the Governor signed the bills into law as a package deal on March 15, 2011. With their passage, Utah opens itself up to costly legal challenges over the constitutionality of these laws. There is pending litigation in Arizona over the constitutionality of Arizona’s SB 1070, the model for Utah’s HB 497. The federal government has exclusive jurisdiction over immigration. Therefore, the “benefits” for undocumented individuals in these laws are illusory and provide a false sense of hope for our immigrant community.

[Download the ACLU of Utah's Immigration Legislation Talking Points that were produced before the beginning of the 2011 session \(PDF\) >>](#)

Arizona Copycat Law Will Promote Racial Profiling

[HB 497, "Utah Illegal Immigration Enforcement Act."](#) sponsored by Rep. Sandstrom, is based on the controversial Arizona law, SB 1070. It mandates unconstitutional law enforcement practices and requires individuals in Utah to carry proof of lawful presence at all times or risk being subjected to lengthy detention and investigation, a decidedly un-American "show me your papers" approach to law enforcement. This bill will create an atmosphere of dangerous racial profiling.

[Read the ACLU of Utah veto letter to Gov. Herbert \(PDF\) >>](#)

[Read the ACLU's full analysis of HB 497 >>](#)

[Read an action alert sent during the legislative session >>](#)

[Read a 3/11/11 Salt Lake Tribune Article >>](#)

[Read a USA Today article >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/15/11

Guest Worker Program Would Usurp Immigration Policies of Federal Government

[HB 116, "Utah Immigration Accountability and Enforcement Amendments,"](#) sponsored by Rep. Wright, proposes to create a guest worker program for undocumented individuals currently residing in Utah. The ACLU of Utah opposed H.B. 116 because immigration regulation and enforcement, including the determination of whether someone can seek and hold employment is solely the role of the federal government. The law also contains various problematic provisions that would have required permit holders to sacrifice their Fourth and Fifth Amendment rights. Finally, the law creates privacy concerns by mandating that personal and sensitive information be contained in a database, with no safeguards or assurances that this information would not be shared with the federal government and used to deport permit holders. Esperanza Granados, Public Policy Advocate for the ACLU of Utah, testified in opposition to the bill before the House Workforce Services and Community and Economic Development Committee.

[Read the full ACLU of Utah testimony \(PDF\) >>](#)

[Read a Deseret News article on the bill >>](#)

[Listen to a KUER radio story about the bill >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/15/11

Utah Does Not Have the Authority to Implement Immigrant Sponsorship Law

[HB 469, "Utah Pilot Sponsored Resident Immigrant Program,"](#) sponsored by Rep. Dougal, allows Utah citizens to sponsor an immigrant to reside and work in the state of Utah. The State of Utah does not have the authority under the Constitution to establish such a program. Karen McCreary, Executive Director, testified at a committee hearing in opposition to this bill.

[Read a Deseret News article >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/15/11

Proposal to Study Impact of Immigration And Establish Visa Program Passes

[HB 466, "Migrant Workers and Related Commission Amendments."](#) sponsored by Rep. Sandstrom, establishes a Utah Commission on Immigration and Migration to study the economic, legal, cultural and educational impact of illegal immigration in Utah. Additionally, it allows the state of Utah to work with the federal government to enter into an agreement with the state of Nuevo Leon in Mexico to obtain foreign migrant workers through use of federal visas.

ACLU of Utah's Position Final Legislative Action

Neutral Signed into law on 3/15/11

Bill Would Have Required State Income Tax Return To Qualify For Instate Tuition

[H.B. 191, "Nonresident Tuition Waiver Amendments,"](#) sponsored by Rep. Wimmer, would have repealed the Utah law that allows undocumented and other students to qualify for in-state tuition based on having attended 3 years of high school in Utah. The bill was subsequently amended to require that undocumented students provide proof of payment of state income tax. The ACLU diligently fought this measure on grounds that all students who attend and graduate from a Utah high school should be able to qualify for in-state tuition, regardless of immigration status. This bill ultimately died in the Senate on the final night of the session, and thus, Utah's existing law remains in effect.

[Read the ACLU of Utah's testimony before the House Revenue and Taxation Committee >>](#)

[Read a Deseret News article >>](#)

[Read a Salt Lake Tribune article >>](#)

[Read a KCPW article >>](#)

ACLU of Utah's Position Final Legislative Action



Defeated in the Senate

Bramble Bill Allows Utah Driver License Exam In Native Language

[S.B. 47, "Drivers License and Identification Card Amendments,"](#) sponsored by Sen. Bramble, amends current law to allow for individuals to take the Utah driver license exam in his or her native language. The ACLU passively supported this move to make it easier for immigrants and others to obtain a drivers license in Utah.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/30/11

Resolution Would Have Reaffirmed Federal Jurisdiction Over Immigration Reform

The ACLU of Utah supported [S.J.R. 18, "Immigration Joint Resolution,"](#) sponsored by Sen. Romero, as one of the only pieces of legislation from the 2011 session dealing with immigration that does so in a manner that is consistent with federal law and the constitution. This joint resolution urged Congress to take on the question of immigration reform and recommends that implementation of state immigration regulation proposals on certain immigration issues be delayed until after January 28, 2013, to allow time for federal immigration reform to pass.

ACLU of Utah's Position

Final Legislative Action



Defeated in the Senate

Unconstitutional Guest Worker Program Defeated

[S.B., "60 Pilot Accountability Permits and Identity Related Amendments,"](#) sponsored by Sen. Robles, was one of several proposals introduced in the 2011 session to create a guest worker program for undocumented individuals currently residing in Utah. The ACLU of Utah opposed S.B. 60 because, immigration regulation and enforcement, including the determination of whether someone can seek and hold employment is solely the role of the federal government. The bill also contained various problematic provisions that would have required permit holders to sacrifice their Fourth and Fifth Amendment rights. Finally the bill would have created privacy concerns by mandating that personal and sensitive information be contained in a database, with no safeguards or assurances that the information would not be shared with the federal government and used to deport permit holders.

[Read the ACLU of Utah's testimony before the Senate Judiciary, Law Enforcement, and Criminal Justice Committee \(PDF\) >>](#)

[Read a Deseret News article >>](#)

[Read a Salt Lake Tribune article >>](#)

[Read a KSL article >>](#)

ACLU of Utah's Position Final Legislative Action



Defeated in the Senate

Guest Worker Bill Dies in Senate, Merges With HB 116

[S.B. 288, "Utah Immigration Enforcement Amendments,"](#) sponsored by Sen. Bramble, attempted to address immigration in a more comprehensive manner by creating a guest worker program for undocumented individuals currently residing in Utah coupled with an Arizona-style enforcement provision. The ACLU of Utah opposed S.B. 288 because immigration regulation and enforcement, including the determination of whether someone can seek and hold employment and the ability of law enforcement to enforce immigration law is solely the role of the federal government. This bill was subsequently merged into HB 116 (see above), which unfortunately was passed by both houses of the legislature.

ACLU of Utah's Position Final Legislative Action



Merged in HB 116

Bill Will Require Background Checks For Some Driver Privilege Card Applicants

[H.B. 138, "Drivers License Qualification Amendments,"](#) sponsored by Rep. Urquhart, as originally introduced, sought to revoke Utah's provision of driving privilege cards for undocumented Utah drivers. Allowing undocumented individuals to have driving privilege cards means that these drivers are also able to obtain car insurance. The bill was amended to require that undocumented individuals provide fingerprints and submit to a background check before being issued a driving privilege card.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/29/11

Bill Would Have Required Use of Inaccurate E-Verify System

[H.B. 253, "Employment of Unauthorized Aliens,"](#) sponsored by Rep. Herod, would have enhanced Utah's current law regarding e-verify use. Existing law requires use by both public and private employers in the State but imposes no penalties for failing to comply. HB 253 would have required that all employers of 5 employees or more make use of e-verify and imposed strict penalties for non-compliance, including potential revocation of a business license. The ACLU of Utah opposed this legislation on grounds that only the federal government can regulate immigration law, including the issue of employment eligibility, and that e-verify is unreliable and should not be mandated. While the bill passed in the House, it died in the Senate.

[Read the ACLU of Utah's testimony before the House Health and Human Services Committee >>](#)
[Read A Deseret News article >>](#)

ACLU of Utah's Position

Final Legislative Action



Defeated in the Senate

Resolution Urges Congress to Resolve Immigration Issues

[S.J.R. 12, "Joint Resolution- Immigration,"](#) sponsored by Sen. Reid, urges Congress to resolve immigration policy issues or give states the authority to address these issues within its own borders. While we oppose the notion that states should be in the business of enforcing immigration law, we did not take a position on this bill, as it does not actually authorize the state to enforce or regulate immigration law.

ACLU of Utah's Position Final Legislative Action

Neutral Defeated in the Senate

Original Arizona Copy Cat Bill Defeated Quickly

[H.B. 70, "Illegal Immigration Enforcement Act,"](#) sponsored by Rep. Sandstrom, was the original Utah version of Arizona's infamous S.B. 1070, and contained many of the very same provisions struck down by the Arizona district court as unconstitutional. The ACLU vehemently opposed this bill because of its constitutional flaws and because it essentially encourages law enforcement to engage in racial profiling. While H.B. 70 ultimately died, it was reborn and renamed as H.B. 497 (See above.)

[Read the ACLU of Utah's testimony before House Law Enforcement and Criminal Justice Committee \(PDF\) >>](#)

[Read a Deseret New Article >>](#)

[Read a Deseret New Article >>](#)

[Read a Salt Lake Tribune article >>](#)

ACLU of Utah's Position Final Legislative Action



Defeated in the House

Bill Would Have Removed Waiting Period for Immigrant Children To Receive State Health Insurance

[S.B. 41, "Health Amendments for Legal Immigrant Children,"](#) sponsored by Sen. Robles, would have removed the five-year waiting period for immigrant children with legal status to enroll in the state's Medicaid and State Child Health Insurance Program (SCHIP). The ACLU of Utah belongs to the Enriching Utah Coalition, which supported this bill, as a means to ensure that more children in our state have access to needed healthcare. Unfortunately, the bill was never given a hearing or debated on the floor.

ACLU of Utah's Position Final Legislative Action

Neutral Defeated in Senate

Bill Sought to Amend 14th Amendment

[H.J.R. 7, "Modification of the 14th Amendment,"](#) sponsored by Rep. Ray was reported in the news media as a bill, similar to others introduced across the nation that encouraged the federal government to amend the 14th Amendment to do away with birthright citizenship for individuals born in the United States whose parents are undocumented. The bill was never formally introduced.

ACLU of Utah's Position Final Legislative Action



Never Introduced

REPRODUCTIVE FREEDOMS

Representative Carl Wimmer introduced three bills that further limit reproductive freedom of women. The three bills passed and were signed into law despite strong and vocal opposition by the ACLU of Utah and our allies.

Law Could Make Abortions More Expensive

[H.B. 171, "Abortion Clinic Licensing Fees,"](#) sponsored by Rep. Wimmer, unfairly subjects Utah's three existing women's health clinics which offer abortions to twice a year inspections and higher government fees. Many abortions take place in hospitals which would be exempt from these new regulations. Placing unnecessary regulations on physicians and the clinics in which they practice is bad public policy that stifles the doctor - patient relationship.

[Read the ACLU of Utah's veto letter to Gov. Herbert \(PDF\) >>](#)

[Watch a Fox 13 News story >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/22/11

Law Could Make Emergency Abortions More Difficult to Obtain

[H.B. 353, "Abortion Freedom Of Conscience,"](#) sponsored by Rep. Wimmer, allows institutions the right to refuse performance of abortion procedures on moral or religious grounds. With this law any hospital could refuse to provide reproductive health care. This broad ability to refuse care is particularly troubling in emergencies. Federal law requires all hospitals to provide emergency care, including emergency abortion care.

[Read the ACLU of Utah's testimony before the House Health and Human Services Committee \(PDF\)](#)

[>>](#)

[Read the ACLU of Utah's veto letter to Gov. Herbert \(PDF\) >>](#)

ACLU of Utah's Position

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Signed into law on 3/23/11

Law Bans Insurance Coverage For Abortions

[H.B. 354, "Insurance Amendments Relating To Abortion."](#) sponsored by Rep. Wimmer, bans health policies that cover abortions. Currently, most insurance plans provide coverage of abortions along with other pregnancy related services, such as prenatal care, labor and delivery, and miscarriage care. This restriction on insurance plans means that a woman would be forced to continue a catastrophic pregnancy if she cannot afford the high out-of-pocket costs to pay for an abortion.

[Read the ACLU of Utah's testimony before the House Health and Human Services Committee \(PDF\)](#)
[>>](#)

[Read the ACLU of Utah's veto letter to Gov. Herbert \(PDF\)](#) >>

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/23/11

RACIAL JUSTICE

Law Targets Constitutional Revision Commission

[S.B. 44, "State Commission Amendments."](#) sponsored by Sen. Dayton, changes the way in which the Constitutional Revision Commission (CRC) may convene to review and advise on proposed amendments to the Utah Constitution. The CRC is a quasi-legislative body that provides advice to legislators about proposed constitutional amendments. The ACLU of Utah is particularly concerned about this law because it seems motivated by a desire to retaliate against the CRC for its unfavorable review of the constitutional ban on affirmative action proposed by Rep. Oda during the 2010 legislative session. The ACLU of Utah engaged in substantial lobbying efforts of groups and legislators encouraging them to oppose the bill.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/29/11

Resolution to End Equal Opportunity Never Materializes

Last legislative session, Rep. Curt Oda (R-Clearfield) introduced HJR 24, a resolution that urges adoption of a constitutional amendment banning equal opportunity programs. While the resolution was not successful in gaining passage last year, it appeared that it was going to be reintroduced in the 2011 session. Senator Dayton registered a bill name and title but never introduced any language

[S.J.R. 2, "Joint Resolution On Equal Treatment By Government,"](#)
[Read the ACLU of Utah's talking points on Equal Opportunity \(PDF\) >>](#)

ACLU of Utah's Position Final Legislative Action



Never was filed

Bill Looks At Indigency Determination Process

[H.B. 272, "Indigent Defense Act Amendments,"](#) sponsored by Rep. McIff, requires the court, when making a determination of indigency for a defendant, to consider the reasonableness of the fees and expenses charged by privately retained defense counsel. The ACLU monitored this bill in light of our ongoing concerns surrounding the state's provision of indigent defense.

ACLU of Utah's Position Final Legislative Action

Neutral

Signed into law on 3/21/11

PARTICIPATORY DEMOCRACY

Law Would Have Diminished Transparency And Accountability in Government

[H.B. 477, "Government Records Amendments."](#) sponsored by Rep. Dougall, caused the loudest public uproar of any legislation other than immigration related bills. H.B. 477 passed quickly in the last weeks of the legislative session and, despite huge protests, was signed into law by Governor Herbert on March 8. Within two weeks a special session was called and [H.B. 1001, "Repeal of H.b. 477,"](#) sponsored by Rep. Dougal, was passed by both houses within one day and signed shortly after by the Governor. HB 477 would have erected serious roadblocks to the public's access to governmental records. Among other provisions, HB 477 would have raised costs for the public to access records, created new exceptions of when governmental records have to be released to the public, and exempt a variety of electronic communications from the definition of a "record" under GRAMA, including (i) voice mails and recordings and transcripts of voicemail's, (ii) instant messages, video chat recordings, and text messages, and would generally reduce transparency in government.

On March 25, the ACLU of Utah, representing two sponsors of the referendum to repeal HB 477, sued Utah Lieutenant Governor Greg Bell challenging his refusal to count electronically collected signatures (e-signatures) submitted in support of citizens' referenda or initiatives. [Read more about this lawsuit >>](#)

[Read the ACLU of Utah's veto letter to Gov. Herbert >>](#)

[Find the contact information for Gov. Herbert >>](#)

[Read a Salt Lake Tribune article >>](#)

[Watch a KSL news story >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/8/11
Repealed on 3/29/11

Unconstitutional E-Signatures Ban Results in Lawsuit

[S.B. 165, "Election Law Amendments,"](#) sponsored by Sen. Bramble, bans the use of electronic signatures to qualify initiatives, referendums and candidates for the ballot. Based on this law Lt. Gov. Bell refused to count any e-signatures that might be gathered in support of a referendum to repeal HB 477. This prompted the ACLU of Utah to file a lawsuit in Utah Supreme Court representing two of the sponsors of the referendum and a third ACLU client, Madison Hunt, who attends college out of state and who, like many Utah voters (like soldiers or missionaries), cannot participate in the HB 477 Referendum if she cannot do so on-line.

[Read more about the ACLU of Utah lawsuit >>](#)

[Read about a previous ACLU of Utah e-signatures victory >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/10/11

Bill Would Have Allowed Some Unregistered Voters To Cast A Provisional Ballot

[H.B. 255, "Provisional Ballot Amendments For Unregistered Voters,"](#) sponsored by Rep. Chavez-Houck, would have modified the Election Code to require a county clerk to count a provisional ballot of an unregistered voter under certain circumstances.

ACLU of Utah's Position

Final Legislative Action



Defeated in the House

Law Makes It Easier to Restore Right To Vote For Some

[H.B. 31, "Restoration of the Right to Vote and Hold Elected Office,"](#) sponsored by Rep. Mathis, amends provisions in Title 20A, Election Code, to provide a process by which a person convicted of a misdemeanor for violating the Election Code may have the right to vote or hold elected office restored.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/30/11

Law Authorizes Election Day Voting Centers

[H.B. 130, "Election Day Voting Centers,"](#) sponsored by Rep. Chavez-Houck, amends the Election Code to authorize an election officer to operate an Election Day voting center.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/25/11

Bill Would Have Compromised Commerce and the Government in Utah

[S.B. 55 "Electronic Signatures,"](#) sponsored by Sen. Urquhart, would have greatly restricted the ability of courts and all other "government agencies" to accept otherwise legal "e-signatures" from Utah residents and others. The ACLU of Utah and cooperating attorney Brent V. Manning, who jointly represented independent candidate for governor Farley Anderson in the landmark case Anderson v. Bell, testified in opposition to the bill before the Senate Business and Labor Committee. In an interview with Etopia News, Manning observed, "[U]nder the terms of S.B. 55, in order for a Utah court to enforce a contract sealed with an electronic signature, it would need to engage in a 'rule-making process' which, as a court, it is not able to do, since its function is to decide cases, not make rules. Thus, no electronic signature, or online purchase, or other electronically-agreed-to contract could be enforced in Utah courts. S.B. 55 'would completely invalidate all electronic transactions in Utah Every government department would have to engage in rule-making that would paralyze the process.'"

[Read the full Etopia article here >>](#)

ACLU of Utah's Position

Final Legislative Action



Defeated in the Senate

LGBT & AIDS

Proposal Would Have Put Appointed State Officials To Control Local School Board Policies

[S.J.R 1, "Joint Resolution on State Board Education Authority."](#) sponsored by Sen. Buttars, proposed to amend the Utah Constitution to modify a provision relating to the State Board of Education specifying that Board's general control and supervision of the public education system is as provided by statute. This is believed to be in response to the passing of non discrimination policies by local school boards.

ACLU of Utah's Position Final Legislative Action



Defeated in the Senate

Senate Bill Attempted to Allow Same Sex Couples to Adopt

[S.B. 62, "Adoption Revisions,"](#) sponsored by Sen. Romero, would have amended provisions of the Utah Adoption Act relating to who may adopt a child. The ACLU of Utah supported this bill because it would have allowed for cohabitating adults to adopt a child if the child is the legal child of one of the cohabitating adults.

ACLU of Utah's Position Final Legislative Action



Defeated in the Senate

House Bill Attempted to Allow Same Sex Couples to Adopt

[H.B. 108, "Adoption Amendments,"](#) sponsored by Rep. Chavez-Houck, would have amended provisions of the Utah Adoption Act relating to who may adopt a child. Though the bill language was never released, the ACLU of Utah supported this bill, like S.B. 62 (above) because it would have allowed for cohabitating adults to adopt a child if the child is the legal child of one of the cohabitating adults.

ACLU of Utah's Position

Final Legislative Action



Language was never introduced

Bill Would Have Modified State Antidiscrimination Act to Provide Housing and Employment Protection To LGBT Community

[S.B. 148, "Utah Fair Housing and Employment,"](#) sponsored by Sen. McAdams, would have modified the Utah Antidiscrimination Act and Utah Fair Housing Act to address discrimination, including discrimination on the basis of sexual orientation or gender identity. The ACLU of Utah supported S.B. 148 because it offered protections for the LGBT community in the areas of housing and employment.

ACLU of Utah's Position

Final Legislative Action



Defeated in the Senate

Bill Would Have Targeted LGBT Community

[H.B. 182, "Voiding Transactions Against Public Policy,"](#) sponsored by Rep. Christensen, would have declared an arrangement, agreement, or transaction that is illegal or against public policy to be void and unenforceable. This might have affected same sex couple who want to protect their joint assets, draft wills or create medical directives but would not legally be able to do so because Utah public policy does not legally recognize these relationships.

[Read a Salt Lake Tribune Article 2/4/11 >>](#)

[Read a Slat Lake Tribune Blog Post 2/4/11 >>](#)

[Read a Blue in Red Zion Blog post >>](#)

ACLU of Utah's Position

Final Legislative Action



Language was never introduced

Bill Would Have Changed State Definition of Family

[H.B. 270, "Family Policy,"](#) sponsored by Rep. Christensen, would have modified Title 30, Husband and Wife, by enacting language relating to the family. The ACLU of Utah opposed H.B. 270 because it defined a family as being a husband and a wife leaving the entire LGBT community out in the cold.

[Read a Salt Lake Tribune article >>](#)

[Read a KCPW story >>](#)

[Read an LGBT Nation article >>](#)

ACLU of Utah's Position Final Legislative Action



Defeated in the House

PRIVACY & TECHNOLOGY

Law Protects Individuals Privacy On Radio Frequencies

[H.B. 224, "Radio Frequency Identification,"](#) sponsored by Rep. Harper, modifies the Interception of Communications Act in the Utah Code of Criminal Procedures by adding offenses relating to intercepting personal information using radio frequency identification technology. The ACLU of Utah supported this bill because it prohibits implantation of any devices against an individual's wishes.

ACLU of Utah's Position Final Legislative Action



Signed into law on 3/22/11

1ST AMENDMENT

Religious Liberties Bill Would Have Fostered Discrimination

[H.B. 109, "Religious Liberties Recognition,"](#) sponsored by Rep. Christensen, was troubling to the ACLU of Utah in that while protecting Utahns right to exercise the 1st Amendment, H.B 109 did so in such a broad fashion that it would have sanctioned discrimination on other grounds. Luckily, the bill never made it to a committee hearing or to the floor for debate.

ACLU of Utah's Position Final Legislative Action



Defeated in the House

Law Requires School Reports on Civic and Character Education

[H.B. 269, "Commission On Civic And Character Education,"](#) sponsored by Rep. Christensen, amends the use of a School LAND Trust Program. The law requires school districts to submit a summary report to the lieutenant governor and Commission on Civic and Character Education on how civic and character education is integrated in school curriculum. The ACLU monitored this bill to be sure that public money was not going to be used to fund educational programs rooted in religion or morality.

ACLU of Utah's Position Final Legislative Action

Neutral

Signed into law on 3/22/11

CRIMINAL JUSTICE/4TH AMENDMENT

Law Violates Reasonable Search Rights of the Accused

[H.B. 324, "HIV Testing of Alleged Sex Offenders,"](#) sponsored by Rep. Greenwood, requires (with some Fourth Amendment justification) that accused sex offenders submit to mandatory HIV testing if requested by an alleged accuser. The ACLU opposed this bill on constitutional grounds, as the act of submitting to an HIV test is a substantial search for which the bill provided no Fourth Amendment justification. We were also concerned about the policy implications of requiring testing from someone accused, and not actually convicted of a crime. The bill was amended to require additional Fourth Amendment justification for the HIV test itself; nonetheless this bill poses constitutional concerns because mandates a search even before conviction, and furthermore, allows disclosure of search results to a third party.

[Read the ACLU of Utah's talking points \(PDF\) >>](#)

[Read the ACLU of Utah's veto letter to the Governor \(PDF\) >>](#)

[Read a Salt Lake Tribune article 3/2/11 >>](#)

[Read a Utah Defenders Blog post >>](#)

[Read a Q Salt Lake article >>](#)

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/22/11

Law Would Have Limited Individuals in Sex Offenders Database From Participating Fully in Society

[S.B. 152, "Sex offender Restrictions Amendment,"](#) sponsored by Sen. Hinkins, would have added a 1,000 foot buffer zone around areas from where a sex offender is restricted and adds county and state parks to the list of protected areas. The ACLU of Utah was concerned that this bill would limit the ability of someone on the sex offender registry from exercising the right to attend public hearings at the state Capitol (because it is adjacent to a park), to vote and to travel freely, all because the 1000 foot buffer zone is so large that it would make these activities impossible. Although we were prepared to testify against the bill, the sponsor recognized the problems with the bill and withdrew it from consideration.

ACLU of Utah's Position Final Legislative Action



Withdrawn by sponsor

Bill Would Have Allowed Unreasonable Search And Seizures

[H.B. 59, "Arrest And Requirements- With Or Without Warrants,"](#) sponsored by Rep. Handy, would have modified the Utah Code of Criminal Procedure regarding arrest by a peace officer without a warrant. The process of issuing, obtaining and serving a warrant is a safeguard against the possible violations of the Fourth Amendment. The ACLU of Utah believes H.B. 59 would have imposed unreasonable searches and seizures.

ACLU of Utah's Position Final Legislative Action



Defeated in the House

Law Would Overturn Statute of Limitations on Some Crimes to Allow Indefinite Prosecution

[H.B. 52, "Limitation of Action-Criminal Offenses."](#) sponsored by Rep. Wilson, modifies the criminal code regarding offenses for which prosecution may be initiated at any time.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/16/11

Law Enhances Penalties for Offenders with HIV

[S.B. 50, "Enhanced Penalties for HIV Positive Offenders."](#) sponsored by Sen. Stevenson, is the 2011 version of a bill introduced during the 2010 session, S.B. 155. As originally introduced, the bill purported to impose enhanced penalties on an offender if he or she “knew or should have known” of his or her HIV status. The ACLU worked with legislators and community partners and other organizations to remove the “should have known” standard and to add in language that would require notification of HIV status before enhanced penalties could be imposed. Nevertheless, the ACLU of Utah continued to oppose this bill.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/18/11

Law Will Require Fingerprints for Juveniles Adjudicated For Felony Offense

[H.B. 48, "Fingerprints of Juveniles,"](#) sponsored by Rep. Peterson, originally required law enforcement to fingerprint and photograph juveniles 14 and older when taken into custody for certain gang-related offenses. Current law already permits law enforcement to use discretion about when to fingerprint and photograph juveniles. Luckily, due to outcry from a variety of groups and organizations, the sponsor amended the bill to only require fingerprints be taken and stored when a juvenile is adjudicated for and admitted to a detention facility for any felony offense.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/21/11

Law Lets Courts Outline Roles and Responsibilities of Parents In Family Plan

[H.B. 207, "Juvenile Amendments,"](#) sponsored by Rep. Harper, as originally drafted, created an exception to the requirement that consent is necessary to interview a child in the custody of the Department of Child and Family Services if the interview is in relation to a matter in which the child is not a suspect. The ACLU of Utah was concerned about the ability of a child to be interviewed without consent. However, a substitute version of the bill was later introduced which addressed only the roles and responsibilities of parents in a child and family plan outlined by the court. Accordingly, our concerns were satisfied.

ACLU of Utah's Position

Final Legislative Action

Neutral as amended

Signed into law on 3/21/11

Law Clarifies Capital Sentencing Procedures

[H.B. 202, "Death Penalty Procedure Amendments,"](#) sponsored by Rep. McIff, modifies the Criminal Code and the Judicial Code regarding capital sentencing procedures to clarify when a petitioner has a right to funded counsel for successive petitions; and sets limits on the obtaining of execution stays for successive post conviction petitions.

ACLU of Utah's Position

Final Legislative Action

Neutral

Signed into law on 3/22/11

14TH AMENDMENT/DUE PROCESS

ACLU Bill Protects Victims of Domestic Abuse

[H.B. 403, "Changes to Fit Premises Act,"](#) sponsored by Rep. Seelig, prohibits a landlord from taking action against a renter for requesting assistance from a public safety agency, and prohibits municipalities with good landlord programs from penalizing property owners whose tenants request reasonable assistance from public safety agencies. The ACLU of Utah has received complaints about municipal "Good Landlord Programs" that are being adopted throughout the state. The main concern of this program regarded cases of domestic abuse – victims feared calling the police because they may end up evicted due to the restrictions in the Good Landlord Program. To address this concern, The ACLU of Utah helped draft this new law.

ACLU of Utah's Position

Final Legislative Action



Signed into law on 3/23/11

Bill Would Have Strengthened Constitutional Review Commission

[H.J.R. 32, "Joint Resolution on Review of Resolution to Amend the Utah Constitution."](#) sponsored by Rep. Biskupski, sought to counteract S.B. 44 (see above), by requiring that all proposed changes to the Utah Constitution be brought before the Constitutional Review Commission for study. The bill did not make it out of the rules committee and so was never heard in a standing committee or on the floor.

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Defeated in the House