

# ACLU Utah

## 2013 Legislative Report

AUGUST 8, 2013



From a civil liberties perspective, the 2013 Legislative Session was thankfully somewhat milder than previous years. Immigration and reproductive health legislation, typically fertile ground for Utah legislators, was uncharacteristically muted compared to measures introduced in previous sessions, and in other states around the country. Conversely, for the first time in many years, an LGBT nondiscrimination bill made historic progress in the legislature! Despite the more moderated tone on the Hill, we vigilantly monitored many legislative attempts to threaten civil liberties in Utah.

### The 2013 session by the numbers:

- **43** Bills tracked and actively lobbied for or against
- **6** Bills we affirmatively supported and worked towards passage, 3 of which passed and were signed by governor
- **6** Anti-civil liberties bills stopped or neutralized
- **20+** Committee hearings attended
- **8** Bills testified in support of or against
- **2** Citizen Lobbyist Training, including one in Southern Utah

*Below is a list of bills that we actively tracked or engaged on during the 2013 Utah General Legislative Session which ended on Thursday, March 14.*

[Reproductive Freedom](#) | [LGBTQ](#) | [Criminal Justice/4th Amendment](#)  
[First Amendment](#) | [Immigrants' Rights](#) | [Participatory Democracy/Voting Rights](#)  
[Privacy & Technology](#) | [Equal Protection](#)


## Reproductive Freedoms

**S.B. 39 Parental Responsibility for Sex Education Training**, sponsored by Sen. Stuart Reid, requires the State Board of Education to develop and offer instruction to parents with information on health education and human sexuality. It also requires the State Board of Education to develop an instructional curriculum, including materials parents may use to educate their children and report on the program to the Education Interim Committee. Importantly, the training provided under this bill

would not supplant the instruction students receive in school. After passing in the Senate, the bill failed by a wide margin in the House.

ACLU of Utah's Position	Final Legislative Action
Neutral	Defeated in the House

**S.B. 60 Abortion Statistics and Reporting Requirements**, sponsored by Sen. Margaret Dayton, requires the Department of Health to compile statistics about women seeking abortions. Some of the information in question includes the reason for seeking an abortion, stage of pregnancy, and the race of the woman seeking an abortion. It seems clear that this bill is a thinly veiled effort to restrict women's reproductive choices down the road. S.B. 60 ultimately passed both the House and Senate with little opposition, before being signed into law. ([Blog post 2/11/13](#))

ACLU of Utah's Position	Final Legislative Action
	Signed into law


**H.B. 387 Vital Statistics Act Amendments**, sponsored by Rep. Jim Nielson, amends the Vital Statistics Act to define a "dead fetus" at 16 weeks gestation, thus giving rise to a death certificate. We were concerned with this language, and its possible implications for women who seek an abortion. We were able to persuade the sponsor of the legislation to amend the bill to specify that this new language does not apply to legal termination. As amended, the bill clarifies for providers that a death certificate never needs to be issued in the case of an abortion. The bill passed both bodies and was signed into law.

ACLU of Utah's Position	Final Legislative Action
-------------------------	--------------------------

Neutral as amended	Signed into law
--------------------	-----------------

## LGBTQ

**H.B. 214 Adoption Modifications**, sponsored by Rep. Rebecca Chavez-Houck, extends the opportunity to adopt to an unmarried cohabiting couple. One of the most important implications of this amendment to the current law, is the protection it would give to same sex couples who wish to adopt. Unfortunately, the bill failed in the House without receiving a committee hearing or a floor vote.


ACLU of Utah's Position	Final Legislative Action
	Died in the House



**S.B. 262, Employment and Housing Antidiscrimination Amendments**, sponsored by Stephen H. Urquhart, modifies the Utah Antidiscrimination Act and the Utah Fair Housing Act to address discrimination, including discrimination on the basis of sexual orientation and gender identity. This bill would provide important protection from discrimination for members of the LGBT community, and focus on the need to treat all Utahns fairly and equally. For the first time in the many years that this bill has been introduced, SB 262 passed out of a Senate subcommittee! Unfortunately, it did not go on to receive a floor vote in either chamber, and ultimately died in the Senate.

**(3/6/13) TAKE ACTION: Support Employment And Housing Equality Across Utah**

**(3/7/13)**

ACLU of Utah's Position	
	Died in the Senate

**H.B. 134S03, Parental Notification Related to Student Safety**, sponsored by Rep. Gage Froerer, requires a school to inform a parent if their student is bullied or threatens to commit suicide. The ACLU was supportive of the concept behind the bill, but wanted to be sure it would not create incentives for schools to “out” students to their parents. The bill passed both bodies and was signed into law.

ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

**S.B. 184, Youth Suicide Prevention Revisions**, sponsored by Sen. Luz Robles, requires a school to inform a parent if their student is bullied or threatens to commit suicide, much like HB134 (see above). The senate version of this concept passed in the Senate before being killed in the House without receiving a floor vote.

ACLU of Utah's Position	Final Legislative Action
Neutral	Died in the House

**H.B. 50, Dating Violence Protection Act**, sponsored by Rep. Jennifer M. Seelig, allows for the issuance of protective orders for individuals who are or have been in a dating relationship. The ACLU became particularly concerned with this bill when an amendment was offered, limiting the issuance of a dating protective order to those dating relationships that lead to marriage. Because Utah's constitution defines marriage as only between a man and a woman, HB 50, as amended, would have made dating protective orders unavailable to LGBT individuals. Fortunately, the amendment failed and the bill passed as originally drafted.


ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

## Criminal Justice/4th Amendment

**H.B. 212 Disease Testing for Public Safety Officers Amendments**, sponsored by Rep. Derek Brown, aims to protect public safety officers, and others working with prisoners. In the event that an individual is potentially exposed to a pathogen, a court may order the prisoner who led to the exposure to be subjected to a blood test, to determine if the individual is at risk. The ACLU was initially concerned about this bill, and its ability to require individuals to submit to an invasive search. However, language requiring prior court scrutiny eased these concerns. The bill passed both bodies unanimously and was signed by the Governor.

ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law


**H.B 31, Enticing a Minor Amendments**, sponsored by Rep. Curt Webb makes it easier to prosecute individuals for sexual offenses by removing the burden of proving that the accused intended to complete a sexual offense with a minor. While the goal of this bill is clearly to protect children, the details raise due process concerns. Ultimately the bill passed both bodies and was signed into law.

ACLU of Utah's Position	Final Legislative Action
	Signed into law

**S.B. 52 Game Fowl Fighting Amendments**, sponsored by Sen. Gene Davis, changes regulations regarding the enforcement of laws pertaining to game fowl fighting. As initially drafted, the bill attempted to statutorily override the 4th Amendment's requirement that an officer have reasonable suspicion that a crime is being committed before making a warrantless arrest. The ACLU worked with the sponsor to amend the bill, but ultimately the bill failed to pass in the House, even as amended.

ACLU of Utah's Position	Final Legislative Action
Neutral as amended	Died in the House

**H.B. 339 House, Indigent Defense in Justice Courts**, sponsored by Rep. Brian M. Greene, requires the appointment of counsel for indigents if the offense the person is charged with includes the possibility of incarceration. We supported the original draft of the bill as it would have helped to ensure that the rights of these accused are protected and that they are given access to counsel for his or her defense. The bill was amended in a way as to make access to counsel less broad, and accordingly, we opposed the final version. H.B. 339 failed by a wide margin in the House.

ACLU of Utah's Position	Final Legislative Action
 as amended	Failed in the House

## First Amendment

**H.B. 34, Special Group License Plate Amendments**, sponsored by Rep. Val L. Peterson, would create a special group license plate reading "In God We Trust." The money generated from the \$25 annual fee would have been distributed by the state of Utah to groups that celebrate "God, family and country". This would have necessarily created conflict with the Establishment Clause's ban on unnecessary state entanglement with religion. Fortunately, we were able to work with the sponsor to amend the bill so that the license plate fees are no longer used as a fundraising tool for organizations that celebrate God. The bill passed with broad support and was signed into law. ([Blog post 2/20/13](#))


ACLU of Utah's Position	Final Legislative Action
Neutral as amended	Signed into law

**S.B. 142 Repeal of Blacklisting Provisions**, sponsored by Sen. Daniel Thatcher, repeals a provision prohibiting blacklisting a former employee, and a provision establishing a criminal penalty for blacklisting. The ACLU monitored this bill for possible 1st Amendment implications. The bill passed with broad support and was signed into law.


ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

## Immigrants' Rights

**H.B. 253 Employment Verification Amendments**, sponsored by Rep. Dixon Pitcher, would require employers to publicly register whether or not they were using the federal E-Verify employment verification system. HB 253 was tabled in a House committee hearing. This is welcome news, as the bill also contained a provision continuing the requirement that employers in Utah use e-Verify; because the bill failed to pass, the requirement to use e-verify will also expire in Utah in 2013. The hearing was noteworthy because of the unprecedented opposition expressed by the business community. ([Blog post 2/11/13](#))

ACLU of Utah's Position	Final Legislative Action
	Died in committee

**H.J.R. 1 Joint Resolution Expressing Support for the Utah Compact**, sponsored by Rep. Lynn Hemingway, expresses support for the Utah Compact and its guiding principles. The ACLU of Utah supported this bill, as the Utah Compact recognizes that immigration regulation is solely a federal issue. The bill died in the House without receiving a committee hearing or a floor vote.

ACLU of Utah's Position	Final Legislative Action
	Died in the House

**S.B. 225, Immigration Trigger Dates**, sponsored by Sen. Curtis S. Bramble, pushes back the date that the Utah Immigration Accountability and Enforcement Act (Utah Guest Worker Program) takes effect. The ACLU of Utah supports the move to push back the start date, as we maintain that the underlying guest worker program is constitutionally unsound. Pushing back the implementation date for the guest worker program seems to be a concession by the legislature that the program is both practically and legally unfeasible. The bill passed with broad support and was signed into law. ([Blog post 3/4/13](#))

ACLU of Utah's Position	Final Legislative Action
-------------------------	--------------------------





Signed into law

**S.B. 163, Status Verification System Amendments**, sponsored by Sen. Karen Mayne, modified the Construction Licensing Act to address a reference to an employment status verification system. The ACLU is concerned with efforts to mandate use of the federal e-Verify employment verification system, and so monitored any legislation that affects employer e-Verify use.

ACLU of Utah's Position	Final Legislative Action
Neutral	Died in the Senate


**H.B. 320, Temporary Identification Card**, sponsored by Rep. Eric K. Hutchings, modifies the Uniform Driver License Act by authorizing the issuance of a temporary identification card. The ACLU monitored this bill for possible implications for the immigrant community. The bill passed unanimously in the House and the Senate before being signed into law.

ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

## Participatory Democracy/Voting Rights

**H.B. 43, Campaign Finance Reporting by Corporations**, sponsored by Rep. Gregory H. Hughes, requires corporations, including potentially nonprofit organizations, to disclose their donors when participating in political activities. The bill raises serious privacy concerns and could potentially threaten free speech. Furthermore, the bill would reduce transparency by driving some organizations to operate through shell corporations in order to avoid disclosure of donors. Unfortunately the bill was


signed into law after passing in both the House and the Senate.  
([Blog post 2/26/13](#)) ([Blog post 2/20/13](#))

ACLU of Utah's Position	Final Legislative Action
	Signed into law

**H.B. 44S01, Election Polling**, sponsored by Rep. Gregory H. Hughes, requires organizations to disclose who funded a poll when one is conducted. The bill is constitutionally suspect, in that it violates the First Amendment because it compels disclosure that chills political speech. Furthermore, the definition of a poll is so broad as to include even neutral, non-advocacy surveys, for which it would be unreasonable to demand disclosure. Unfortunately, the bill passed the House and the Senate and was signed by the Governor.

([Blog post 2/11/13](#)) ([Blog post 3/4/13](#))

(3/20/13) [First Amendment Concerns Result In Letter to Gov. Herbert Urging Veto of H.B. 44](#)

ACLU of Utah's Position	Final Legislative Action
	Signed into law

**H.B. 64, Felon's Right to Hold Office**, sponsored by Rep. Carol Spackman Moss, would restrict sex offenders from being elected to positions on the State Board of Education and local school boards. The initial definition of sex offender was of particular concern, as it was overly broad. While this language was ultimately amended, it is always troubling for the legislature to restrict categories of people from the right to hold office. H.B. 64 passed both bodies with strong support and was signed into law.

([Blog post 2/3/13](#))

ACLU of Utah's Position	Final Legislative Action
-------------------------	--------------------------



Signed into law

**H.B. 82, Elections and Early Voting During a Declared Emergency**, sponsored by Rep. Rebecca Chavez-Houck, authorizes the lieutenant governor to designate a different method, time, or location relating to voting, early voting, or canvassing an election during a declared emergency. The ACLU supports legislative measures that make access to voting easier, such as HB 82. The bill had unanimous support in both chambers and was signed by the Governor.

ACLU of Utah's Position

Final Legislative Action



Signed into law

**H.B. 91, Voter Registration - Election Day Voter Registration**, sponsored by Rep. Rebecca Chavez-Houck, permits voters to register and vote on Election Day by allowing provisional ballots to be counted, even if the voter was not previously registered. The ACLU supports this important measure that would likely increase voter participation in our state, and would certainly make the right to vote easier to exercise. After passing with strong support in the House, the Senate proved to be more of an uphill battle. Almost literally in the 11th hour on the last night of the session the bill failed on the third reading vote in the Senate.

ACLU of Utah's Position


Final Legislative Action




Failed in the Senate

**H.B. 258 Straight Party Voting Amendments**, sponsored by Rep. Patrice Arent, sought to end straight ticket voting in Utah elections. The idea behind the legislation is that when voters can vote for a single party, as opposed to voting for each specific office, it can lead to voter confusion. As an organization that firmly supports voting rights, the ACLU of Utah supports any bill that encourages greater voter participation and makes voter choices easier and less confusing. Thus, we were disappointed that the

bill did not make it out of committee, and so failed to receive a floor vote.  
([Blog post 2/3/13](#))

ACLU of Utah's Position	Final Legislative Action
	Failed in Committee

[S.B. 25 Elections During Declared Emergency](#), sponsored by Sen. Peter Knudson, authorizes the lieutenant governor, during a declared emergency, to designate alternative methods or times for voting or counting an absentee ballot or military-overseas ballot. It also requires the lieutenant governor to notify a voter of alternatives to vote an absentee or military-overseas ballot, including posting the alternatives on the voter information website. The ACLU supported this bill as it would give flexibility to election officials to make the right to vote easier in the case of a declared emergency. S.B. 25 passed both bodies unanimously and was signed into law.

ACLU of Utah's Position	Final Legislative Action
	Signed into law

[H.B. 122, Fees for Government Records Requests](#), sponsored by Rep. Brian King, alters the state Freedom of Information Act, GRAMA, to require free access to government records when the request was made on behalf of the public. The bill increases the public's free access to records, and improves transparency. Unfortunately the bill was returned to the House Rules Committee where it was effectively killed without ever receiving a floor vote.

ACLU of Utah's Position	Final Legislative Action
-------------------------	--------------------------



Died in House Committee

**S.B. 94 Government Records Amendments**, Sponsored by Sen. Curtis Bramble, provides for the creation of a publicly accessible repository, on the Legislature's website, of email that legislators transfer to the repository. While potentially a step forward in term of increasing government transparency, the bill does not mandate that legislators post their email to the website. The bill passed both bodies with very little opposition and was signed into law.


ACLU of Utah's Position	Final Legislative Action
	Signed into law

**S.B. 77, Availability of Government Information**, sponsored by Deidre M. Henderson, imposes more stringent requirements on the legislature to provide the public with meeting minutes. This is a positive step towards ensuring government transparency. The primary change dictates that meeting minutes must be made available to the public "within seven business days" of the meeting. This is an improvement over the old language that only required minutes to be provided "within a reasonable time". This is a welcome change and will hopefully improve government transparency and accountability. Ultimately the bill passed without any opposition and was signed into law. ([Blog post 2/26/13](#))


ACLU of Utah's Position	Final Legislative Action
	Signed into law

**H.B. 207S01, Open and Public Meetings Act Amendments**, sponsored by Re[. Kraig Powell, requires that no less than 72 hours notice be given before a meeting is held. The measure would give the

public more opportunity to attend meetings, and improve transparency. The bill never received a floor vote in the house and so did not progress.

ACLU of Utah's Position	Final Legislative Action
	Died in the House

**H.B. 78, Request for Legislation Amendments**, sponsored by Rep. Kraig Powell, requires that it be made public when a legislator makes a request for legislation. Under existing law, a legislator may protect this information from being disclosed. The ACLU supported this measure, as it would increase the information made available to the public; thus increasing the public's ability to be involved in the legislative process. Unfortunately, H.B. 78 never received a floor vote and was killed in the House.

ACLU of Utah's Position	Final Legislative Action
	Died in the House

**S.J.R. 3 Joint Rules Resolution on Submitting and Numbering Legislation**, sponsored by Sen. Aaron Osmond, as initially drafted, attempted to do away with the process of "boxcar legislation" whereby a legislator can open a bill file without providing any additional information about the content of the bill. This practice makes the legislative process more opaque for the public, and consequently more difficult to be involved. The bill was significantly watered down during the session; the version signed into law allows only bills requests that are accompanied by detailed information to be prioritized in the legislative process.

ACLU of Utah's Position	Final Legislative Action
-------------------------	--------------------------



Signed into Law

**S.J.R.4 Joint Resolution on Ethics Complaint Procedures**, sponsored by Sen. Luz Robles, would have strengthened the existing law pertaining to ethics violations, especially where complaints are filed against an individual running for office. Unfortunately, the bill never received a committee hearing or floor vote.

ACLU of Utah's Position

Final Legislative Action



Died in the Senate

**H.J.R. 11, Joint Rules Resolution-Waiting Period for Bills**, sponsored by Rep. Steve Eliason, prohibits either chamber of the Legislature from passing legislation unless the legislation has been numbered and publicly available for at least 72 hours. This bill would have prevented legislation from being introduced without sufficient time for the public to weigh in or otherwise scrutinize a bill. The resolution never received a floor vote and died in the House.

ACLU of Utah's Position

Final Legislative Action





Died in the House

## Privacy & Technology

**H.B. 100, Internet Privacy Amendments**, sponsored by Stewart Barlow, attempts to establish and protect employee privacy in the workplace. The bill sets forth when and what an employer can access on an employee's electronic devices and online accounts. HB 100 starts out on a good note, laying out a laundry list of things employers cannot access from their employees. Unfortunately, the second half of the bill is riddled with loopholes and broad language that could potentially gut the protections established in the first half of the bill. The bill underwent some amendments to tighten the problems in the second half of the bill; problems still remain, however. H.B. 100 easily passed both bodies and was signed into law.


[\(Blog post 2/20/13\)](#)

ACLU of Utah's Position	Final Legislative Action
 and 	Signed into law

**S.B. 196 License Plate Reader Amendments**, sponsored by Sen.Todd Weiler, addresses the use of automatic license plate reader (ALPR) systems in Utah. The bill limits when ALPR systems can be used, and places restrictions on the use and storage of the data collected. The bill is critical to ensuring the privacy of Utahns is protected in the face of increasingly sophisticated technology. S.B. 196 passed the Senate unanimously and the House with strong support. We are happy to report that it was signed into law by Governor Herbert on April 1st.

**(2/7/13) ACTION ALERT! Protect Privacy And Good Law Enforcement Practices - Support S.B. 196**

[\(Blog post 2/20/13\)](#) [\(Blog post 3/4/13\)](#)

ACLU of Utah's Position	Final Legislative Action
	Signed into law

**H.B. 104 House Bill 104 Wireless Call Location Information**, sponsored by Mark A. Wheatley, is a bill that allows emergency services to request your location from a cell provider in the event of an emergency. The privacy concerns we initially had concerning the ability of law enforcement to access ones whereabouts based on a wireless call were allayed by the requirement that cell providers comply only in specific emergency situations. H.B 104 passed both bodies with strong support and was signed into law.




ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

**H.B. 127 Motor Vehicle Event Data Recorders**, sponsored by Rep. David Lifferth, provides that the data stored on a car's "black box" is the personal property of the vehicle owner. The bill also places restrictions on how and when data can be retrieved in the event of an accident. The ACLU supported this important bill; prior to its passage it was unclear who would have access to black boxes that contain information about our whereabouts and movements. The bill passed both bodies unanimously and was signed into law by the Governor.

ACLU of Utah's Position	Final Legislative Action
Neutral	Signed into law

## Equal Protection

**S.B. 108 Civil Rights Amendments Relating to Persons with a Disability**, sponsored by Sen. Patricia Jones, includes "disability" among the characteristics protected from discrimination under civil rights provisions. The ACLU supports measures such as this one, which would protect the rights of those with disabilities from being discriminated against in a variety of circumstances. Ultimately the bill did not receive a floor vote in the Senate and was killed.

ACLU of Utah's Position	Final Legislative Action
	Died in the Senate