



AMERICAN CIVIL LIBERTIES UNION OF UTAH
311 S. State St. Suite #310 Salt Lake City, Utah, 84111
(801) 521-9862 PHONE • (801) 532-2850 FAX ACLU@ACLUUTAH.ORG •
WWW.ACLUUTAH.ORG

March 3, 2023

Dear Governor Spencer Cox:

We write to urge you to veto two bills relating to birth certificates and identification documents: H.B. 209, a bill that places burdens on young people seeking to participate in extracurricular activities that will disproportionately affect marginalized students, and S.B. 93, which alters the process by which transgender individuals can amend their birth certificates.

The ACLU of Utah is deeply concerned that H.B. 209 may have an unfair, disproportionate impact on students with historically marginalized identities. That is, H.B. 209 can be read to only allow schools to join an athletic association that collects birth certificates from children registering for athletic teams and events. This new requirement would create an unnecessary barrier for all children and their families but will be felt most acutely by students who either do not have birth certificates or do not have easy access. Students and families more commonly in that situation will include immigrants, naturalized U.S. citizens (including adopted children), LGBTQ+ youth, foster children, individuals born out of state, families struggling with housing instability, or under-resourced households who may not be able to afford costs associated with replacing a lost birth certificate.

We recognize that H.B. 209 allows children who are not U.S. citizens or considered a “homeless child or youth,” as defined by the McKinney-Vento Homeless Assistance Act, to use a defined set of alternative identifying documents. While we recognize that this is helpful to those children, the requirement will still burden those families who do not have them in their possession when their student is trying to register.

Adding more hurdles to participation in school activities is bad policy, especially when the hurdles are higher for marginalized people. Some families who do not have birth certificates on hand may simply give in, and their student cannot participate. Others may try to obtain a birth certificate but cannot acquire it in time to register. Others may not be able to afford the expenses involved. Students will be effectively barred from participating in all those cases because of the new requirement. Because this result will have an inequitably distributed impact on certain students and lead to unfair outcomes for youth in Utah, we urge you to veto this bill.

Likewise, the ACLU of Utah is deeply concerned about S.B. 93’s birth certificate amendment requirements. By enacting numerous requirements to amend a gender marker on a birth certificate, S.B. 93 enacts substantial and unnecessary burdens exclusively for transgender individuals to obtain a birth certificate that accurately reflects their gender. Numerous courts have held that bans on changes to gender markers on identification documents violate the Equal Protection, Due Process, and First Amendment rights of transgender individuals. Access to accurate identity documents is essential for everyone but is especially critical for transgender individuals to permit them to live authentically and safely. Enacting these harmful barriers will impede many, especially young people, from having identity documents with name and gender that accurately reflect who they are. Accurate identity documents are imperative to ensure that transgender and non-binary individuals are not forced to out themselves every time they present an identity document that does not match their gender identity. Possessing an accurate birth certificate is vital for recognizing every person’s fundamental dignity and allowing their quality of life to flourish.

We strongly urge you to veto H.B. 209 and S.B. 93 to ensure that all Utahns can equally enjoy the privileges and rights the State offers.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brittney Nystrom".

Brittney Nystrom
Executive Director
ACLU of Utah

CC:

Lt. Governor Deidre Henderson
Jennifer Napier-Pearce
Neil Abercrombie