

If Utah's annual Legislative Session was a sport (and sometimes it feels that way), the ACLU of Utah would be a top contender. In 2022, our team of attorneys, organizers, lobbyists, and issue experts tracked 84 bills, published 48 action alerts, and produced 10 videos—reaching thousands of Utahns with updates, facts, and talking points about our priority issues. Our behind-the-scenes lobbying and public testimony (listen to audio recordings linked below) protected Utah's popular vote-by-mail system, defended the First Amendment in public schools, and helped to defeat two bills targeting transgender Utahns. Learn more about our lobbying wins and losses in this **2022 Legislative Report**.

REPLACE THE DEATH PENALTY

H.B. 147 Death Penalty Modifications

Rep. Lowry Snow (R-Santa Clara)

After a pause in 2021, the effort to repeal Utah's death penalty resumed this year with Rep. Snow's bill to replace the death penalty with two options: 1) life without parole, 2) or a new 45 year-to-life sentence. Backed by the chief prosecutors from Utah, Summit, Grand and Salt Lake counties, and boosted by a visit from Bryan Stevenson, the well-known death penalty opponent, lawyer, and author of *Just Mercy*, the repeal effort received significant publicity early in the session. Repeal proponents argued in op-eds and media appearances that Utah's death penalty system was both broken and caused harm to victim's family members through prolonged appeals, all while costing the state tens of millions of dollars. Also joining the repeal effort was Sharon Wright Weeks, whose sister and niece were murdered in the 1984 American Fork killings profiled in the best-selling book, *Under the Banner of Heaven*. Unfortunately, the bill never received support from legislative leadership or the Utah Attorney General's office. During its first and only committee hearing, opponents of repeal used emotional testimony from victim's family members and raised concerns about continued litigation for current death row inmates to defeat the bill in a 6-5 vote.

EXPUNGE JUVENILE RECORDS

H.B. 171 Custodial Interrogation Amendments

Rep. Ryan Wilcox (R-Ogden)

You probably know about the "right to remain silent" when police start asking questions. But did you know that police can lie to both adults and children during interrogations to secure a confession? It's true. But this bill will stop police from lying to children about evidence or offering a more lenient sentence. While an early version of the bill would have blocked all deceptive tactics during interviews with children, it was amended to define the scope of prohibited false statements to mentions of evidence and leniency. Lyla Mahmoud, the ACLU of Utah's Legislative & Policy Counsel testified in favor of this bill during a House committee hearing. As a former public defender, she explained to legislators that children are more likely to make false confessions when police use deceptive tactics during interrogations because they lack the same decision-making abilities as adults. Even with the reduced scope of this bill, we consider it an important victory for protecting the rights of children in the criminal legal system.



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SUPPORT RIGHTS OF UNSHELTERED PEOPLE

H.B. 440 Homeless Services Amendments

Rep. Steve Eliason (R-Sandy)

Legislative discontent over the unmet needs of unsheltered populations in Utah's largest cities pushed Rep. Eliason to draft this bill, which places more oversight and requirements on Utah mayors and councils. For example, this bill requires counties and cities to designate a winter overflow shelter by September 1 or the state will step in, allows shelters to increase capacity under certain circumstances, and stops municipalities from blocking service providers from opening a winter facility in their own building. We support these requirements because individuals with stable housing or places to sleep are less likely to have their civil liberties violated due to lack of shelter. We know that unlawful searches and disposal of personal property without due process are much more common among unsheltered people, resulting in the loss of important documents, belongings, or medications, which perpetuates the cycle of experiencing homelessness.



You can read ACLU of Utah Graduate Associate Hanna Jackvich's op-ed in the *Deseret News* supporting H.B. 440.

PRESERVE 1ST AMD. RIGHTS IN UTAH'S SCHOOLS

H.B. 374 Sensitive Materials in Schools

Rep. Ken Ivory (R-West Jordan)

Although lawmakers introduced four bills to scrutinize or censor books and teaching materials in Utah's K-12 schools, only H.B. 374 advanced through both chambers to become law—and only after its language was amended to align with current First Amendment protections. The bill's initial text defined "sensitive materials" as any image or description of actual or simulated sexual conduct, a dangerously broad scope that could ban everything from Shakespeare's *Romeo and Juliet* to the young adult novel, *The Sisterhood of the Traveling Pants*. It also threatened local school boards with civil judgements up to \$10,000 per incident unless they removed the challenged content from schools. During testimony in front of a House



committee, the ACLU of Utah's Lyla Mahmoud raised concerns that any increased censorship would target certain viewpoints and identifies, especially materials created by Black, brown, and LGBTQ authors, and not the actual language of their books. After recommendations by the ACLU and legislators, Rep. Ivory altered his definition of sensitive materials to "pornographic or indecent material," a category that is already prohibited in educational settings and is not protected by the First Amendment. With this change, the bill no longer violates the First Amendment protections for books and curriculum in public schools, although we will remain vigilant in how it is enforced.

S.B. 257 Divisive Concepts in Government and Education

Sen. John Johnson (R-Ogden)

This far-reaching bill (Utah's own version of the wrongly named anti-critical race theory legislation) failed to advance during its only committee hearing after senators abruptly shut down the discussion and adjourned, leaving the sponsor and his supporters angry but outmaneuvered. The bill attempted to ban any instruction or training in Utah's public schools, universities, or government agencies about "divisive concepts," which it defined to include systemic racism or ideas that cause "discomfort" to certain identities. While the bill didn't include the term "critical race theory" in its list of banned topics (likely because this complex legal theory has nothing to do with the scope of the bill), it was clearly aligned with the conservative movement to counter discussions of how race and racism are embedded in history, government, and culture of the United States. We were glad to see this bill defeated in a bipartisan fashion in Utah when other states have seen similar legislation passed into law.



ACLU of Utah staff members pose for a selfie after a meeting to discuss legislative issues with Lt. Gov. Deidre Henderson in January 2022.

PROTECT REPRODUCTIVE RIGHTS

H.B. 382 Abortion Modifications

Rep. Kera Birkeland (R-Morgan)

The only abortion-related bill introduced in the recent session, H.B. 382 was very similar to a failed 2021 bill proposed by former Rep. Steve Christiansen. And like the bill from last year, H.B. 382 was so unpopular that it also never received a committee hearing. Rep. Birkeland's bill would have added needless restrictions to make abortions more difficult to navigate for patients and providers, including requiring some patients to travel hundreds of miles roundtrip, twice, to access care. It also expanded the required informed consent module to include audio of a fetal heartbeat and additional graphic images of each step of an abortion procedure. Based on recent polling, we know 80% of Utahns agree that no further restrictions on abortion access are needed in Utah. While we are glad this bill never advanced in Utah, we know the threat of new anti-abortion bills will continue as we await the Supreme Court's decision on the ability of states to further restrict abortion access.

ACTION ALERT
A new bill was introduced...

H.B. 382 ABORTION MODIFICATIONS

This bill modifies the informed consent module created by the State of Utah for all abortion procedures to include even more burdensome requirements for Utahns seeking healthcare.

The ACLU of Utah opposes this bill.

Rep. Kera Birkeland (R-Morgan)

ACLU Utah

PROTECT THE FREEDOM TO VOTE IN UTAH

H.B. 313 Election Security Amendments

Rep. Jon Hawkins (R-Pleasant Grove)

Our legislative team scrutinized this bill because it touched on all aspects of our election system, from registering to vote and filling out a ballot, to dropping off a completed ballot and tracking its progress during tabulation. We generally oppose bills like H.B. 313 because their focus on ballot security implies that Utah's excellent election system currently lacks adequate protections or is open to fraud, an unfounded and dangerous assertion in today's political climate. In the end, we stayed neutral on H.B. 313 because of improvements to the bill made by several amendments. The final version that passed the legislature requires 24-hour video surveillance of unattended ballot drop boxes and mandates that first-time voters who did not submit a valid ID when registering must provide proof of identity before voting. The last step likely will require county clerks to mail

separate instructions to voters asking them to include a photocopy of a valid voter identification when returning their completed ballot. The one aspect of the bill we support is the \$500,000 one-time appropriation to help counties pay for additional expenses related to the bill.



The "ACLU on the Hill" series featured six videos with interviews and updates about the ACLU's priority bills. Click on the image or go to www.youtube.com/user/ACLUofUtah to watch the latest episodes.

H.B. 188 - Voter Signature Verification Amendments

Rep. Steve Eliason (R-Sandy)

Since most election bills attempt to restrict or complicate voting, we were glad to support H.B. 188, a good election bill that unfortunately did not pass. This legislation would



have established new procedures for verifying ballot signatures and required poll workers to follow specific steps for contacting a voter if a signature is rejected. Signing your ballot is an important security measure for vote-my-mail elections, but this step can create

problems for voters with disabilities and others whose written signatures might year-to-year. By standardizing and streamlining the signature verification process, this bill would give voters more confidence that their mail-in ballots will be counted. As

Director of Campaigns, Nikila Venugopal, said in her testimony supporting H.B. 188, "We believe that standardizing the process for verifying that a voter's signature is their own will ensure equal and fair access to the ballot box." Although H.B. 188 was approved by the House, it failed to pass the Senate.



H.B. 371 Voting Revisions

Rep. Phil Lyman (R-Blanding)

Claiming title as the worst bill of the session is a competitive sport in Utah, but H.B. 371 won it handily in 2022. Not only did this bill completely remove mail-in voting as Utah's main election method, but also scrapped ballot drop boxes and limited absentee ballots to voters who are unable to vote in-person on Election Day. But wait, there's more. The bill also severely limited voter registration efforts and required the state to conduct a sham ballot review. Plus, the fiscal cost of the bill totaled millions of dollars for the state and counties to retool the way Utahns vote.

Because H.B. 371 failed in its first and only committee hearing in a 3-7 vote, Utah can remain a national model for safe, secure, and accessible elections. But we are still concerned that the persistent supporters of this bill will continue to attack Utah's vote-by-mail system and other key reforms like Election Day registration.



PROTECT TRANSGENDER YOUTH

H.B. 127 Medical Practice Amendments

Rep. Rex Shipp (R-Cedar City)

For the third year in a row, a bill blocking transgender youth from accessing essential medical care did not advance in Utah. Originally drafted as a ban on hormone therapies, Rep. Shipp attempted to expand the bill to include a prohibition on surgical procedures as well. Facing widespread opposition from LGBTQ advocates, medical providers, and lawmakers appalled by the scope of the bill, it never received a hearing. We hope three times is the charm and this intrusive and discriminatory bill never appears again. Notably, this bill was defeated in Utah at the same time the Texas Attorney General issued a legal opinion stating that gender-affirming health care for youth constituted "child abuse" under Texas law and ordered state agencies to investigate all complaints—an action the ACLU is challenging in court.

H.B. 11 Student Eligibility in Interscholastic Activities

Rep. Kera Birkeland (R-Morgan)

Just hours before the end of the 2022 session, Republican lawmakers re-wrote this bill to make it an outright ban on transgender youth playing sports in Utah. This surprise move supplanted a compromise that required transgender athletes to seek approval from a state-appointed commission before playing sports that matched their gender identifies. The language switch also happened after months of seemingly good-faith negotiations between lawmakers

and transgender advocates in which almost no one involved indicated a desire to enact a discriminatory ban. Although blindsided by this last-minute change, advocates and their supporters in the Utah Senate mounted a strong attack against the bill before the chamber passed it in a 16-13 vote. But between the Senate vote, and the required House vote to confirm the changes, Utah Gov. Spencer Cox held a late-night news conference to announce he would veto the new bill, saying he was "very disappointed in the process" that led to the transgender sports ban.



ACLU of Utah staff testified both in-person and online on many bills at the Utah Capitol: Clockwise from bottom-left: Lauren Beheshti, Hanna Jackovich, and Lyla Mahmoud.

After Gov. Cox vetoed H.B. 11 on March 24, the Utah Legislature held a special session to override the veto on March 25. H.B. 11's ban on transgender youth will become law on July 1, 2022 unless courts overturn it. In a statement released to the press, the ACLU of Utah publicly announced that litigation to stop H.B. 11 from taking effect is "both necessary and inevitable." We believe that discriminating against transgender athletes not only prevents them from experiencing the sense of confidence and inclusion associated with team sport, but it also compounds the exclusion and trauma far too many transgender Utahns already experience.

REFORM THE CRIMINAL LEGAL SYSTEM

H.B. 124 Forcible Entry Warrant Modifications

Rep. Matthew Gywnn (R-Farr West)

Over the last decade, the Utah Legislature has attempted several times to limit the use of "knock and announce" and "no knock" warrants by law enforcement seeking to enter a residence. These reform efforts began after a 2012 raid on

an Ogden house that resulted in the death of police officer and continued after the March 2020 killing of Breonna Taylor in Kentucky. While a few bills became law, most have failed. This year, Rep. Gywnn successfully guided new legislation limiting these incursions across the finish line. H.B. 124, a re-worked version of a bill previously sponsored by former Rep. Craig Hall, prohibits no-knock warrants for misdemeanor charges, establishes a preference for daylight operations, requires more than one entry warning, and requires officers to wear clothing or badges that identify them as law enforcement. While the reforms contained in H.B. 124 are not as substantial as concepts proposed in previous legislation, it also passed both chambers of the legislature and will become law—a rare achievement in this category of police reform.

H.B. 257 Public Prosecutor Modifications

Rep. Kay Christofferson (R-Lehi)

In recent years, reforming the criminal legal system enjoyed support from many stakeholders based on strong evidence that more arrests, tougher sentences, and larger jails was discriminatory, expensive, and ineffective at reducing recidivism. But now we are seeing a backlash to reform by tough-on-crime proponents, especially against prosecutors who want to reduce mass incarceration, focus on rehabilitation, and prioritize community healing rather than costly retribution. This movement inspired H.B. 257, a bill that in its first draft eliminated much of the flexibility of prosecutors to make case-by-case decisions about how they file charges. Prosecutors use their professional latitude to consider special circumstances related to a case and make charging determinations based on their judgement and experience. The final draft of H.B. 257 is less problematic than the original, but it still chips away at this discretion by limiting when a prosecutor may file a misdemeanor rather than a felony charge. It pushes a prosecutor’s hand to make decisions weighted to seek maximum charges and penalties regardless of public safety concerns, input from victims and other mitigating factors. We believe the prosecutorial discretion is crucial to making actual justice more achievable, and that H.B. 257 is a step backward in making our criminal legal system work better and more efficiently.

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You can read ACLU of Utah Deputy Legal Director Jason Groth’s op-ed in the *Salt Lake Tribune* opposing H.B. 257

S.B. 126 Officer Intervention and Reporting Amendments

Sen. Jani Iwamoto (D-Holladay)

Building on police reform legislation she sponsored in prior sessions, Sen. Iwamoto successfully passed this bill to

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require law enforcement officers to intervene and report any incident when another officer engages in misconduct, including using excessive force, conducting an unlawful search, or engaging in discrimination. The legislation also protects officers who speak up

against threats or actions of retaliation for reporting misconduct by their colleagues. Created with input from groups ranging from the Salt Lake County District Attorney, the Utah Chiefs of Police Association, and county sheriffs, plus advocates like the Utah chapters of the NAACP and Black Lives Matter, as well as the ACLU of Utah, this bill received strong bipartisan support and passed the legislature without a single vote in opposition.



[L-R] Lyla Mahmoud (Legislative & Policy Counsel), and Nikila Venugopal (Director of Campaigns) at the Capitol.

DEFEND INDIGENOUS RIGHTS IN UTAH SCHOOLS

H.B. 30 Student Tribal Regalia Use Amendments

Rep. Angela Romero (D-Salt Lake City)

Inspired by episodes of Native American high school students in Lehi, Cedar City, and also Arizona, Oklahoma, and California, being denied the ability to wear tribal apparel at their own graduation ceremonies, Rep. Romero proposed this simple bill to make it allowable. From now on, any Utah student who is enrolled, or is eligible to be enrolled, as a member of a tribe can wear tribal regalia at their graduation ceremony. Sensing the widespread support and positive

impact of this bill, H.B. 30 never received a single “no” vote during its journey through the Utah Legislature.

PROTECT THE RIGHTS OF IMMIGRANTS

H.B. 222 Driving Privilege Card Amendments

Rep. Adam Robertson (R-Provo)

Utah is one of 16 states that allow adults who are unable to present proof of legal authorization to be in the U.S. to obtain a Driving Privilege Card (DPC) in place of a driver’s license. These cards, which must be renewed every year, had previously cost \$52 to obtain or renew, plus an initial \$25 fee for fingerprint processing. But because the Utah Legislature passed H.B. 222, the cost of a DPC will decrease to \$32 to obtain and \$23 to renew, bringing its expenses more in line with other categories of driver’s licenses in the state. We supported this bill as a commonsense fix to inequity in Utah Code that had a disparate impact on immigrants and their families.

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S.B. 216 Modifications to Driver License Examination

Sen. Luz Escamilla (D-Salt Lake City)

As the diversity of Utah’s population continues to grow, it is important that our laws reflect these changes to ensure that government serves all the people in our state. Presently, only approved asylees and refugees are allowed to take the written exam in another language when they first apply for or renew a limited-term driver’s license. S.B. 216 addresses these trends by requiring the state’s Driver License Division to provide the Class D driver’s license exam in five commonly spoken languages in the state other than English. To determine those languages, the bill requests the division to consult with the Division of Multicultural Affairs. We supported this bill because expanding the ability of the driver’s license division to provide the exam in other languages to more categories of individuals makes driving more accessible to more Utahns.



2022 LEGISLATIVE PRIORITIES **ACLU Utah**

- Replace the Death Penalty
- Protect Transgender Youth
- Improve Cell Phone Data Privacy
- Defend Indigenous Rights in Utah Schools
- Make it Easier to Expunge Juvenile Records
- Defend Reproductive Freedom
- Support Rights of Unsheltered People
- Protect the Freedom to Vote in Utah
- Preserve First Amendment Rights in Utah’s Schools
- Pursue Justice Reform to Reduce Mass Incarceration

Legislative Priorities we developed before the 2022 Session.

ACLU on the Hill

Episode #4
Learn about three bills that could change Utah elections and how you vote, with our guide, Nikila Venugopal, the ACLU of Utah’s Director of Campaigns.

Episode #3 TAKE 2
A new bill would ban police from lying about evidence when interrogating children... the ACLU’s Lyla Mahmoud explains how this bill changed at the last minute, and why this reform is a smart idea.

Examples of “ACLU on the Hill” episodes we filmed in 2022..

Tonight, we are disappointed in the Utah Senate passage of HB11’s outright ban on transgender youth playing sports.

We are also disappointed in the flawed process that re-wrote this bill just hours before the end of the legislative session—and after months of what we considered genuine negotiations.

But what we are most concerned about is how transgender youth in Utah will wake up tomorrow to realize, once again, that a majority of their state legislature considers them threats instead of valued members of their communities.

This is not true.

At the ACLU of Utah, we will do everything in our power to defend their right to play sports while being who they are.

And we are encouraged by Gov. Spencer Cox’s immediate statement that he will veto HB11.

ACLU Utah

Our statement after the last-minute substitute of H.B. 11.