



Frequently Asked Questions about Utah's HB 497, "Show Me Your Papers" Law

During the 2011 General Session, the Utah State Legislature passed a "package" of laws addressing immigration. Included in the package are **HB 497 "Utah Illegal Immigration Enforcement Act"**, **HB 116 "Utah Immigration Accountability and Enforcement Amendments"**, **HB 466 "Migrant Workers and Related Commission Amendments"**, and **HB 469 "Utah Pilot Sponsored Resident Immigrant Program"**. Both HB 116 and HB 469 have an effective date of 2013 and are unlikely to ever take effect because they violate Article III of the U.S. Constitution. HB 466, (the guest worker bill) which establishes a partnership between the Mexican State of Nuevo Leon and the State of Utah is constrained by the federal limitation on visas. Therefore, of these four laws, only HB 497, with an effective date of July 2011 would be implemented and have an immediate negative impact on our community. The ACLU of Utah initiated a lawsuit in May, arising out of the unconstitutionality of HB 497, also known as the "show me your papers law". A federal district court judge quickly granted a temporary restraining order, prohibiting enforcement of HB 497. There will be a hearing for a preliminary injunction in February 2012.

**SAY
NO
TO
HB497**

1. What is wrong with Utah's HB 497?

HB 497 requires and/or allows (depending on the alleged offense) local law enforcement to request immigration status papers from anyone they stop, detain, or arrest. In some cases, whether the officer decides to request proof of immigration status will likely be based on factors such as appearance or English-speaking ability, which will encourage racial profiling. Furthermore, HB 497 sets forth a limited list of documents that law enforcement will accept as verification of immigration status. Many individuals who are lawfully present in the U.S. do not have one of the acceptable documents, or do not regularly carry such documents, putting them at risk of being subjected to unreasonably long detentions during traffic stops or other encounters with law enforcement. This law turns Utah into a "show me your papers" police state, which is inconsistent with traditional American ideals of freedom and democracy.

2. How is HB 497 like Arizona's SB 1070?

Although the language of Utah's HB 497 is not identical to SB 1070, its impact on average residents of the state is the same. Both laws compel all people, citizens and non-citizens alike, to carry specified identification documents at all times, or risk investigation into their citizenship and immigration status by local police officers. Both laws give local police officers unbridled and unconstitutional authority to suspect the citizenship and immigration status of anyone they stop for allegedly committing any crime, including jaywalking or minor traffic offenses. Both laws also give state and local police the authority to arrest people without a warrant for presumed violations of civil immigration laws. The Utah legislature experimented with the language of HB 497 in an effort to distinguish its provisions from those in SB 1070. Superficial language changes alone are not enough to cure the law of its constitutional defects.

3. How does HB 497 cause racial profiling?

The "reasonable suspicion" language of the law will allow and invite law officers to second-guess a person's immigration status based on stereotypes, i.e., race, ethnicity, or accent. Demanding "papers" based on a person's appearance is not "reasonable" and is not constitutional.

4. What's wrong with having Utah police enforce federal immigration laws?

Salt Lake City Police Chief Chris Burbank and other top law enforcement officers recognize that HB 497 will significantly harm the public trust of local law enforcement agencies, thereby discouraging people from approaching the police for help or assisting the police in solving local crimes. It will also divert already scarce resources from local law enforcement efforts.

5. What is the difference between HB 497 and federal law?

HB 497 encourages racial profiling, something that federal law recognizes can undermine fundamental American values of fairness and equality for all people. Like Arizona's law, Utah's law would give state and local police the authority to arrest people without a warrant for presumed violations of civil immigration laws. Not even federal immigration agents have the authority to do that. Also, HB 497 would only be enforceable within the state of Utah, and thus people traveling to or through Utah would not necessarily have notice of the law and be able to abide by it. Federal law applies uniformly across the United States, while HB 497 and other similar laws enacted in other states only apply in their respective states, leading to a "patchwork" of often inconsistent state immigration laws.

6. How does HB 497 interrelate with other bills passed by Utah this year that seek to regulate the presence and employment of immigrants in the state?

Along with HB 497, the Utah Legislature enacted HB 116, HB 466 and HB 469. This package of bills was designed to regulate the presence and employment of immigrants in the state of Utah. HB 497 takes effect without regard to the availability of the illusory and constitutionally suspect state guest-worker permits or state-based immigration sponsorship contemplated by

HB 116 and HB 469. In essence, although it enacted a package of bills and promoted them as a "kinder, gentler" alternative to Arizona's SB 1070, Utah has established a harsh enforcement-only, "papers please" approach to immigration that is very much modeled after Arizona's unconstitutional law.

7. Why doesn't this law live up the ideals of "The Utah Compact"?

Utah's immigration-related laws do not reflect the five principles of the Utah Compact. The Compact recognizes that immigration is a federal issue, that local law enforcement should not focus on civil violations of federal code, opposes policies that separate families, and recognizes the need to adopt a humane approach to the immigration issue. HB 497 is contrary to those principles.

8. What is the ACLU doing about HB 497?

The ACLU and the National Immigration Law Center (NILC) filed a lawsuit in federal court to stop the law from taking effect. The premise of the suit is that the new law violates various provisions of the U.S. Constitution, including the Supremacy Clause and the Fourteenth Amendment's Equal Protection Clause. A federal court judge granted a temporary restraining order to keep the law from going into effect on May 10, 2011. A hearing for a preliminary injunction, which would further block enforcement of the law, will follow in the coming months.

9. Why does the ACLU defend the rights of immigrants?

The ACLU has a long history of defending the Constitution, which from the very beginning has included defending the rights of immigrants. Regardless of one's views on U.S. immigration policy, the fundamental civil liberty protections of the Bill of Rights and the U.S. Constitution protect every person in this country – including non-citizens. Laws such as HB 497 target immigrants who are politically disenfranchised. When the government has the power to deny legal rights and due process to one vulnerable group of people, it endangers all of us.

For more information about the ACLU of Utah's work on Immigrants' Rights, visit our website at www.acluutah.org/immigration.shtml