

ACLU OF IDAHO

2008 LEGISLATIVE SESSION IN REVIEW

REPRODUCTIVE RIGHTS AND HEALTH

The Idaho legislative session would not be complete without the discussion of various measures designed to restrict access to reproductive health services and information. The 2008 legislative session was no different.

Last year, various attempts were made to promote legislation making it unlawful to coerce a woman into obtaining an abortion but the bills never received public hearings. The bill sponsors were back again this year to introduce anti-coercion legislation once again after having worked for a year to try and improve upon their original drafts.

The first attempt in 2008 was HB 464. HB 464 was touted as a pro-choice and pro-women bill, but it was in fact another veiled attempt to restrict choice. HB 464 would make it illegal to coerce a woman into obtaining an abortion, which we all agree should never happen. However, the bill did not address the very real problem of women being forced to carry pregnancies to term and remain in abusive relationships. In addition, the language of HB 464 would have prohibited speech and expression protection by both the United States and Idaho constitutions.

In cooperation with other organizations, the ACLU of Idaho worked hard to address the constitutional problems with HB 464 as well as make the legislature aware that the bill would, in reality, do nothing to protect women. Due to our efforts, the sponsors of HB 464 withdrew the bill and introduced HB 654. HB 654, while still only protecting women from coerced abortions, was simply a waste of the legislature's time. HB 654 simply criminalizes conduct that is already illegal under Idaho Code. While HB 654 did nothing to protect women, it also did nothing to harm women and therefore the ACLU of Idaho and our coalition partners did not oppose this bill. Because of our hard work and lobbying efforts, the harmful HB 464 died before it was ever voted on by the House or Senate. While we are not worried about the effects of HB 654, we can no doubt expect more attempts to limit reproductive choice in the 2009 legislative session.

PASSED

HB 559 – Dept. of Health and Welfare website to contain abortion materials. Amends existing law to require the Department of Health and Welfare to place abortion related materials on a secured website and provides for duties by physicians and physicians' offices to inform pregnant patients of the availability of such materials. *Sponsored by Reps. Luker, Roberts,*

McGeachin, Mathews, and Sens. McKenzie and Jorgenson. Passed the House (55-Y, 10-N, 5-A) and passed the Senate (29-Y, 6-N). The ACLU of Idaho monitored this bill.

HB654 – Unlawful to coerce a woman to obtain an abortion. Adds to and amends to existing law to provide that it is a criminal act to coerce or attempt to coerce a woman to obtain an abortion. The definition of “coercion” is limited to the use of or threats of violence. *Sponsored by Reps. Nonini, Moyle, Nielsen, Luker, Andrus, Mathews, Kren, and Sens. Pearce, McKague, and Fulcher. Passed in the House (55-Y, 11-N, 4-A) and passed in the Senate (29-Y, 6-N). Because of our work to defeat the precursor to this bill, HB 464, the ACLU of Idaho did not oppose this bill.*

FAILED

HB 464 – Unlawful to coerce a woman to obtain an abortion. Adds to existing law making it illegal to coerce or attempt to coerce a woman into having an abortion. The definition of coercion was very broad and vague and included speech and conduct protected by the United States and Idaho constitutions. *Sponsored by Reps. Nonini, Moyle, Nielsen, Luker, Andrus, Mathews, Kren, and Sens. Pearce, McKague, and Fulcher. Held ion the House floor. The ACLU of Idaho opposed this bill.*

IMMIGRATION/IMMIGRANTS’ RIGHTS

Across the nation, state legislatures are attempting to fix the immigration problem by passing states laws aimed against immigrants and employers who hire undocumented immigrants. While the 2008 session was not as bad as the 2007 session with respect to immigrants’ rights and discrimination against immigrants, Idaho did not escape the anti-immigrant trend in statehouses across the country.

The Idaho Legislature considered SJM 110, a memorial that urged the federal government to, among other things, strip birthright citizenship to the children of undocumented immigrants. Although SJM 110 failed, another version of the memorial, SJM 111, was adopted by the Idaho Legislature. In addition, the legislature placed restrictions on immigrants seeking to obtain a driver’s license and refused to grant a hearing on a bill that would allow immigrant students who have graduated from Idaho high schools to pay in-state tuition to Idaho colleges and universities.

PASSED

HB366 – Places restrictions on the issuance of driver’s licenses to certain immigrants. Amends existing law to prohibit the issuance of a driver’s license, instruction permit, privilege or right to drive to persons not lawfully present in the United States; requires verification of the social security number by the Social Security Administration for an applicant for a driver’s license; and requires the expiration date of a license or identification card to match the expiration date on any immigration documents of a person who is not a citizen or permanent resident of the United States. *Sponsored by Lynn Rhodes, Idaho Transportation Department. Passed the House*

(47-Y, 21-N, 2-A) and passed the Senate (34-Y, 0-N, 1-A). The ACLU of Idaho discussed problems created by HB 366 with various legislators and organizations but took no official position on the bill.

SJM111 – Message to Congress and President regarding Illegal Immigration. States finding of the Legislature and emphatically urges the President of the United States and Congress to honor their oaths of office and pass the necessary and appropriate legislation to resolve the “illegal immigration crisis.” Recommendations to the federal government include (1) securing the national borders; (2) stopping illegal immigration, including ending government incentives for illegal immigration; and (3) immediately implementing a guest-worker program that requires guest-workers to apply for work visas and that established compliance and enforcement standards. *Sponsored by Sens. McKague, Pearce, Richardson, Heinrich, and Jorgenson, and Reps. Wood, Hagedorn, and Hart. Passed the House and Senate on voice votes. The ACLU of Idaho opposed this bill.*

FAILED

HJM112 – Message to Congress and President regarding Illegal Immigration. States findings of the legislature and urges the President and Congress of the United States to pass legislation to resolve the “illegal immigration crisis.” Recommendations to the federal government include (1) securing the national borders; (2) stopping illegal immigration, including ending government incentives for illegal immigration; and (3) immediately implementing a guest-worker program that requires guest-workers to apply for work visas and that established compliance and enforcement standards. *Sponsored by Sens. McKague, Pearce, Richardson, Heinrich, and Jorgenson, and Reps. Wood, Hagedorn, Hart, Crane, Snodgrass, Anderson, and Black. Held in House State Affairs. The ACLU of Idaho opposed this bill.*

SJM110 – Message to Congress and President regarding Illegal Immigration. States finding of the Legislature and emphatically urges the President of the United States and Congress to honor their oaths of office and pass the necessary and appropriate legislation to resolve the “illegal immigration crisis.” Recommendations to the federal government include (1) securing the national borders; (2) stopping illegal immigration, including ending of economic incentives for illegal immigration; (3) ending birthright citizenship for children of illegal immigrants; and (4) rejecting any form of amnesty for illegal immigrants. *Sponsored by Sens. McKague, Pearce, Richardson, and Jorgenson, and Reps. Wood, Hagedorn, and Hart. Held in the Senate State Affairs Committee. The ACLU of Idaho opposed this bill.*

SB1427 – In-State Tuition for Certain Undocumented Immigrants. Amends existing law to allow for in-state tuition for immigrants who have graduated from an Idaho high school, have lived in Idaho continuously for the 3 years preceding graduation from high school, and who have or will apply to legalize immigration status as soon as the student is eligible. *Sponsored by Fernando Mejia of the Idaho Community Action Network. Held in Senate Education Committee. The ACLU of Idaho supported this bill.*

SB1513 – Prohibits Idaho Employers from Hiring Undocumented Immigrants. Amends existing law to prohibit employers from hiring undocumented immigrants and provides for penalties for such action. In addition, the bill makes it a misdemeanor to falsely impersonate another in order to seek employment. *Sponsored by Reps. Hart, Speaker Denney, and Sens. Jorgenson and Pearce. Held in Senate State Affairs Committee. The ACLU of Idaho monitored this bill.*

CRIMINAL JUSTICE, SEX OFFENDERS, AND DUE PROCESS

Every session there is a flurry of bills introduced dealing with criminal justice, sex offenders, and due process. The 2008 Idaho Legislative Session was no different. The ACLU of Idaho monitored most of the criminal justice and due process related bills and worked behind the scenes to ensure that harmful bills were at least amended before passing.

The most notable of the bills passed this session was HB 382, which clarifies the premises to which a sex offender has access. The first draft of HB 382 raised many concerns because it was not clear how the distance between a sex offender's home and premises to which the offender is not allowed access was to be measured. In addition, the bill as originally written would not have provided any notice to offenders that certain premises were off limits. The ACLU of Idaho worked with a handful of legislators to draft amendments to HB 382 so that notice would be given and measurements would be clear. Although the ACLU of Idaho does not generally support bills like HB 382, as amended, we did not take a formal position and simply monitored the bill.

The legislature also passed legislation restricting the number of sex offenders who are permitted to live at the same residence (HB 417) as well as legislation that gives greater local control over group housing (HB465). By further restricting group homes, the legislature has made it harder for offenders and other individuals convicted of certain crimes to find homes and reintegrate into the community, thereby possibly increasing the chance of some individuals to re-offend.

PASSED

HB381 – Electronic Monitoring of Violent Sexual Predators. Amends existing law to require electronic monitoring of violent sexual predators placed on probation or parole and provides a penalty for unlawful interference with any electronic monitoring equipment. *Sponsored by Rep. Clark and Sen. Darrington. Passed the House (68-Y, 0-N, 2-A) and the Senate (34-Y, 0-N, 1-A). The ACLU of Idaho monitored this bill.*

HB382 – Clarifies premises to which sex offender access is prohibited and when such access is prohibited. As amended, HB 382 requires sex offenders to live 500 feet from certain premises (including schools) and prohibits sex offenders from loitering or remaining upon school property or property used by schools. Properties must be posted with signs so as to give notice to offenders. *Sponsored by Rep. Clark and Sen. Darrington. Passed the House (69-Y, 0-N, 1-A)*

and passed the Senate (35-Y, 0-N). The ACLU of Idaho opposed the original bill but monitored HB 382 as amended.

HB417 – Restrictions on Group Residences for Adult Sex Offenders. Adds to existing law relating to adult criminal sex offenders to restrict persons registered or required to register under the Idaho sex offender registration act from living together in groups exceeding two registered sex offenders. Provides for certain exceptions. *Sponsored by Reps. Luker, Moyle, Black, Bolz, Crane, Kren, Bowers, and Sens. Andreason, Lodge, and McKenzie. Passed the House (68-Y, 0-N, 2-A) and passed the Senate (32-Y, 0-N, 3-N). The ACLU of Idaho monitored this bill.*

HB 465 – Regulation of Group Residences. Permits local government greater latitude in applying zoning procedures and conditions to group homes housing convicted felons. *Sponsored by Rep. Luker. Passed the House (61-Y, 4-N, 5-A) and passed the Senate (32-Y, 1-N, 2-A). The ACLU of Idaho opposed this bill.*

SB1317 – Parole Release Date. Amends existing law to allow the Commission of Pardons and Parole to release offenders onto parole on the last business day prior to their parole eligibility date, when that date falls on a Saturday, Sunday, or legal holiday. *Sponsored by Olivia Craven, Commission of Pardons and Paroles. Passed the Senate (34-Y, 0-N, 1-A) and passed the House (65-Y, 0-N, 5-A). The ACLU of Idaho supported this bill.*

SB1319 – Prohibits Sexual Contact between Employees of Dept. of Juvenile Corrections and Juvenile Offenders. Amends existing law to clarify that any person, including juveniles, in the custody of a correctional facility in Idaho, including juvenile facilities, and any employee of a governmental or private agency having such custody is a felony. Sexual contact between any person on felony parole or felony probation and any employee of the Idaho Department of Correction who supervises such persons is a felony. *Sponsored by Larry Callicutt and Brett Reinke, Department of Corrections. Passed the Senate (34-Y, 0-N, 1-A) and passed the House (63-Y, 0-N, 7-A). The ACLU of Idaho monitored this bill.*

SB1370 – Prohibits Adults from Exposing Children to Sexual Conduct. Amends existing law to make it a felony to induce, cause, or permit a minor child to witness an act of sexual conduct. Sexual conduct is defined as human masturbation, sexual intercourse, sadomasochistic abuse, or any touching of the genitals or pubic areas of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification. *Sponsored by Senator Darrington and Bill von Tagen of the Attorney General's Office. Passed the Senate (31-Y, 0-N, 4-A) and passed the House (67-Y, 2-N, 1-A). The ACLU of Idaho monitored this bill.*

FAILED

HB383 – Penalty for Third Party Assistance to Sexual Offenders attempting to avoid registration requirements. Adds to existing law making it a felony for a person, who has reason to believe that a sexually violent predator is not complying with registration requirements, and with the intent to assist the sexually violent predator, to (1) withhold information about noncompliance with registration requirements; (2) harbor, attempt to harbor, or assists in harboring a sexually violent predator; (3) conceals, attempts to conceal, or assists in concealing a

sexually violent predator; or (4) provides false information to law enforcement. *Sponsored by Rep. Clark and Sen. Darrington. Held in House Judiciary and Rules Committee. The ACLU of Idaho opposed this bill.*

HB516 – Alternative Sentencing for Certain Mandatory Minimum Sentences. Provides treatment focused alternative sentencing for certain mandatory minimum sentences and allows judges, where appropriate, to sentence those whose crime was primarily the result of addiction, to a treatment focused track so as to more effectively rehabilitate offenders, reduce recidivism, and slow the growth in Idaho of the non-violent offender population. *Sponsored by Reps. LeFavour, Luker, Labrador, Hard, Anderson, and Harwood. Held in the House Judiciary and Rules Committee. The ACLU of Idaho supported this bill.*

SB1296 – Escorting Sex Offenders to Counseling. This legislation provides that sex offenders and juvenile sex offenders in state custody may not be transported to counseling by family members. *Sponsored by Roger Falen. Held in Senate Judiciary and Rules Committee. The ACLU of Idaho monitored this bill.*

ELECTIONS, VOTING, AND ACCESS TO GOVERNMENT

Likely the most active area of proposed legislation in the 2008 Idaho Legislature dealt with issues surrounding elections, voting, and access to government. The 2008 session was filled with efforts to reform the election process, the most controversial of which was the attempt by the Republican party to close the primary election process. This effort did not go over well with Democrats, Independents, and many Republicans within the legislature as at least one proposal would require voters to register and their party affiliation would be information open to the public. In a state with a large number of independents and others who are very protective of their privacy, it did not come as a big surprise that these primary election reform bills failed. However, as promised, just days after the legislature adjourned, the Idaho Republican Party filed suit in federal court against the GOP Secretary of State Ben Ysursa challenging the state's current open primary election system. The complaint asks the court for an injunction against the state and Ysursa, "compelling implementation of a closed party primary in accordance with party rules, for all primary elections conducted after 2008." We will have to wait and see what happens, although we can be sure more primary election legislation will be introduced in 2009.

Unfortunately, the right to comment at certain hearings remains highly restrictive in Idaho. The ACLU of Idaho, for many years, has supported legislation to lift restrictions on who is permitted to comment at public hearings regarding the proposed sites of Confined Animal Feed Operations (CAFOs). This session was no different. SB1402 aimed to change the current, law, which only permits those individuals who live within one mile of the proposed CAFO site to testify, ignoring the fact that there are many people who do not fit within that boundary that may be adversely affected by the CAFO site. The ACLU of Idaho supported SB1402 and it passed easily in the Senate. When the bill was given to the House Local Government Committee we experienced a repeat of last year, the chair held the bill and it never received a hearing in the House.

FAILED

HB413 – Permanent Absentee Voter Status. Amends existing law relating to elections to allow absentee voters the option to apply for status as a permanent absentee voter in all elections for which they are qualified. *Sponsored by the Idaho Association of Counties. Held in House State Affairs Committee. The ACLU of Idaho supported this bill.*

HB612 – Political Part Conventions. This legislation deregulates the manner in which political parties do business in Idaho; clarifies that political parties have the ability to govern themselves by rule and removes all reference in Idaho statutes to their convention processes and delegate selection for national conventions. *Sponsored by Rep. Loertscher. Passed the House (49-Y, 16-N, 5-A) but was held in the Senate State Affairs Committee. The ACLU of Idaho monitored this bill.*

HB624 – Permanent Absentee Voter Status for Certain Voters. Amends existing law relating to elections to allow for permanent absentee voter status for individuals who are disabled, serving full time in the military, or who are full time missionaries. *Sponsored by Rep. Loertscher. Failed in House State Affairs Committee. The ACLU of Idaho monitored this bill.*

HB637 – Election Consolidation. Amends, adds to, and repeals existing law to limit elections to two dates in each calendar year, except for school districts that are allowed two additional election dates; to specify those elections to be held in odd numbered years and those to be held in even numbered years; to transition certain terms of office from an odd number of years to four year or six year terms; to provide for all elections to be conducted by the appropriate county clerk, except for water districts, ground water recharge districts, ground water management districts and irrigation districts; and to provide for an annual distribution from sales tax revenues to counties to fund the additional cost of conducting elections. *Sponsored by Reps. Lake and Roberts. Held in the House State Affairs Committee. The ACLU of Idaho monitored this bill.*

SB1258 – Primary Elections. This legislation amends Idaho's election law to provide for a closed primary election. It provides for re-registration of all electors in the state and enables each to select an affiliation with a political party or to select an independent status. The bill requires that voters would be allowed to vote only in the primary election for the party in which they are registered. Independent voters would be given the non-partisan ballot only on which to vote. *Sponsored by J. Kirk Sullivan, GOP Chairman. Held in Senate State Affairs Committee. The ACLU of Idaho monitored this bill.*

SB1291 – Financial Disclosure. This legislation creates a requirement for certain Idaho elected officials and candidates to file personal financial disclosure statements with the Idaho Secretary of State. *Sponsored by Sens. Stennett, Langhorst, Kelly, Burkett, Bilyeu, Sageness, and Werk. Held in Senate State Affairs Committee. The ACLU of Idaho supported this bill.*

SB1292 – Idaho Fair Elections Act. Adds to and amends existing law to provide for an alternative, voluntary method of financing electoral campaigns as opposed to the private

campaign financing system currently in place. *Sponsored by Sens. Langhorst, Kelly, Stennett, Sageness, Bilyeu, and Werk. Held in Senate State Affairs Committee. The ACLU of Idaho monitored this bill.*

SB1297 – Disclosure of Meeting Time and Place. Amends existing law to provide that all state and local governmental meeting notices which include time and place changes shall be posted on the outside of the original meeting place in a conspicuous place. *Sponsored by Roger Falen. Held in Senate State Affairs Committee. The ACLU of Idaho supported this bill.*

SB1298 – Records of State Government Meetings. Amends existing law to provide that a full recording of the meeting is required; to provide that all recordings shall be retained for a minimum of three years; and to provide that the recordings shall be deemed a public record. *Sponsored by Roger Falen. Held in Senate State Affairs Committee. The ACLU of Idaho supported this bill.*

RIGHT TO PRIVACY

Perhaps the biggest victory for the ACLU of Idaho in the 2008 session was the passage of HB606, a bill rejecting and opting out of Real ID. Just as we did last year with HJM3, the anti-Real ID memorial, the ACLU of Idaho provided the sponsors with language to help draft the bill and supported HB606 every step of the way. HB606 passed both the House and Senate unanimously and was signed into law by the governor making Idaho the 8th state to opt out of Real ID completely.

PASSED

HB501 – Address confidentiality for victims of domestic violence. Adds to existing law to provide for judicial authorization of address confidentiality applications and to allow for such authorized individuals to keep their addresses confidential and receive mail at an address assigned by the Secretary of State. *Sponsored by Reps. Ringo and Trail. Passed in the House (63-Y, 0-N, 7-A) and passed in the Senate (33-Y, 0-N, 2-A). The ACLU of Idaho monitored this bill.*

HB606 – Opt Out of Real ID. Prohibits the Idaho Department of Transportation from implementing the federal Real ID Act of 2005. *Sponsored by Reps. Hart, Barrett, Wood, Mortimer, Neilsen, Harwood, and Chavez, and Sens. Jorgenson, McKague, and Pearce. Passed the House (65-Y, 0-N, 5-A) and passed the Senate (32-Y, 0-N, 3-A). The ACLU of Idaho helped draft and supported this bill.*

HUMAN RIGHTS

One of the ACLU of Idaho's proactive efforts in 2008, which was carried over from our proactive efforts in the 2007 session, was an attempt to amend the Idaho Human Rights Act. The Idaho Human Rights Act, among other things, protects against discrimination in the areas of employment, housing, education, and public accommodation. Protected classes under the Idaho Human Rights Act include race, color, religion, sex, and national origin. While some are protected under the act, discrimination in Idaho is still permitted if based on sexual orientation or gender identity and expression. The ACLU of Idaho, in cooperation with many coalition partners, attempted to amend the Idaho Human Rights Act to include protections for the LGBT community. In 2007, although we had numerous sponsors, both republican and democrat, signed onto the amendment and it looked like a print hearing would be granted, the bill was finally stopped by the Senate State Affairs committee before the print hearing. This year, we were able to get a print hearing and the Senate State Affairs Committee voted in favor of printing the bill. Although we only succeeded in getting the bill printed but did not get a public hearing, this is a very important step because now SB1323 is now part of the public record. We consider the printing of SB1323 a victory and commit to going back to the legislature in 2009 to try again.

In addition to holding SB 1323, and despite a long list of republican and democrat sponsors, the Senate State Affairs Committee also killed a bill that would require PERSI divestment from financial investments in a small subset of "highest offending" foreign companies that facilitate the genocide in the Darfur region of Sudan.

FAILED

SB1323 – Idaho Human Rights Act. Amends existing law to provide protection against discrimination based on sexual orientation and gender identity in the areas of employment, housing, education, and public accommodation. *Sponsored by Sens. Corder, Langhorst, and Coiner, and Reps. LeFavour, Bock, and Bilbao. Held in the Senate State Affairs Committee. The ACLU of Idaho supported this bill.*

SB1367 – PERSI Divestment. This legislation seeks to financially dissociate the state of Idaho and specifically the Public Employee Retirement System of Idaho (PERSI) from financial investments in a small subset of "highest offending" foreign companies that facilitate the genocide in the Darfur region of Sudan. *Sponsored by Sens. Langhorst, Stegner, Bastian, Hill, Heinrich, Bair, Pearce, Stennett, Burkett, and Werk, and Reps. Snodgrass, LeFavour, Jaquet, Ringo, Hart, Mathews, Trail, Bock, Bowers, Pasley-Stuart, Henbest, Hagedorn, and Chew. Held in Senate State Affairs Committee. The ACLU of Idaho monitored this bill.*