

UPDATE ON REAL ID IMPLEMENTATION

After last year's repeal of Idaho's moratorium on enacting Real ID, it was unclear what, if any, privacy protections Idahoans had as Real ID compliant driver's licenses and state identification cards were rolled out. But thanks to SB 1069, introduced by Senator Steve Vick (R – Dalton Gardens), Idahoans can breathe a small sigh of relief. SB 1069 now provides two things. The first is that Idahoans have a choice in what type of identification card they get, whether it's a Real ID compliant or a non-compliant license or state ID. The second is that notice must be given to individuals so they fully understand the privacy matters implicated by selecting a Real ID license – like the requirement that DMV scan and store copies of all our identity source documents, such as our birth certificate or passport. Idahoans will now be empowered to make a licensing choice that best suits their needs while ensuring their sensitive private information is protected.



Legislative Recap 2017

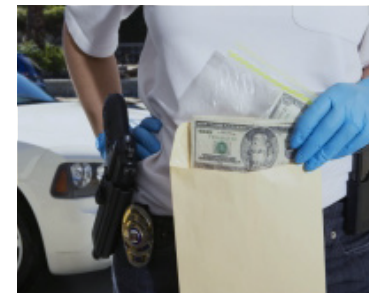
Every legislative session presents both challenges and opportunities for our work at the ACLU of Idaho in defending and advancing civil liberties and rights in Idaho. The 2017 Legislative Session kicked off with high hopes for passing proactive legislation expanding civil rights protections in Idaho. But as most legislative sessions go, we spent a significant part of the twelve-week session playing defense. We successfully fought to prevent the passage of bills that threatened Idaho's immigrant community, challenged legislation that continues the War on Drugs, and opposed efforts to restrict access to early voting. Yet, despite the grueling 80 day legislative session, our presence made a difference in safeguarding the rights and liberties promised to us by the Constitution.

RESTRICTIONS TO VOTING RIGHTS

After every major election cycle, it's not unusual to see legislation aimed at restricting access to the ballot. Such was the case with HB 150, introduced by Representative Dustin Manwaring (R – Pocatello), which tried to restrict access to early voting. Under his proposal counties would be required to restrict the number of early voting weeks they offer, from the current standard of two weeks or more, to no less than one week and no more than three weeks. A handful of counties across Idaho currently offer more than three weeks of early voting, meaning voters in those counties would have seen a decrease in access during the next election cycle. After making it out of the House, HB 150 was finally stopped in the Senate State Affairs Committee, reassuring voters that early voting and access to the ballot would not be restricted.



A COLLABORATIVE STEP FORWARD CIVIL ASSET FORFEITURE REFORM



After almost two years of work, thanks to our bill sponsors Representatives Steven Harris (R – Meridian) and Ilana Rubel (D – Boise) and our partnership with the Idaho Freedom Foundation, positive civil asset forfeiture reform is gaining traction in Idaho.

Unfortunately, despite bi-partisan support, Governor C.L. Butch Otter vetoed HB 202 citing that the bill "was a problem in search of a solution." While the Governor may disagree with the need for such reforms, it's apparent to us, our coalition partners, and even a majority of legislators inside the statehouse that additional transparency measures are needed to prevent police abuse within our civil asset forfeiture laws.

Our civil asset forfeiture laws stem back to the failed War on Drugs, where state and federal governments granted local law enforcement the authority to seize any property believed to be connected to drug crimes – regardless of whether or not the individual whose property was seized was ever charged or convicted of criminal wrongdoing. According to a 2015 Institute for Justice report titled "Policing for Profit" the state of Idaho earned a D- for its civil asset forfeiture laws.

To begin to address these flawed policies, our bipartisan group introduced and passed HB 202. The bill makes it clear that the presence of cash is insufficient probable cause to seize one's property. It also provides a way for seized property to be returned to its owner if it's reasonably necessary for the owner's employment. Ultimately, the most important component of the bill is the newly mandated annual reporting requirements. The reporting requirement will shed light on how this policy is being used and better identify patterns of abuse, targeted policing, and needs for additional protections for property owners.

WHAT'S IN STORE FOR 2018?

Add the Words

Another session passed and another year that members of the gay and transgender community still lack explicit non-discrimination protections in employment, housing, and public accommodations. Despite the introduction of HB 69 from Representative Mat Erpelding (D – Boise), the bill was never granted a public hearing, and the legislature once again punted on ensuring that all Idahoans can live free from fear of discrimination.

Driving Without Privileges Reform

For years we've been asking the legislature to consider driving without privileges reform. As the number one most charged crime in the state (over 13,000 charges a year), reducing it from a misdemeanor to an infraction and removing the attached mandatory minimum sentence, the State could provide relief to low-income Idahoans who should not go to jail simply for their inability to pay outstanding fines or fees. Unfortunately, the bill that we worked on with Senator Dan Johnson (R – Lewiston) wasn't granted an introductory hearing this year, but we remain dedicated to our fight for 2018.

Severe Mental Illness Death Penalty Exemption

The ACLU of Idaho has led the Idaho Alliance for the Severe Mental Illness Death Penalty Exemption coalition, or IASMIE. We've been working over the past year with members of the mental health community, law enforcement, faith leaders, and various social justice organizations to exempt individuals with severe mental illness from receiving the death penalty. As we prepare for the 2018 Legislative Session, we'll continue to work with our IASMIE partners in securing legislative support.



BY THE NUMBERS

Days in the 2017 legislative session	80
Legislators in both the House and Senate	105
ACLU lobbyists present in the Statehouse	1
Bills tracked	60
Hearings where ACLU staff testified	15
Bills ACLU supported	10
Bills ACLU opposed	17
Activist trainings held to encourage the public to engage in the legislative process	1
Attendees at the ACLU Activist Academy	100

STIRRING UP HATE IN IDAHO

This legislative session, Idaho was not immune to the national anti-immigrant rhetoric that is dominating the public sphere. Yet again, we saw anti-immigrant legislation introduced not once, but twice by Representative Greg Chaney (R – Caldwell). Both versions of his bill aimed to send the same message to immigrant communities across the state: “You are not welcome here.” The first version of the bill, HB 76, not only required law enforcement to increase its cooperation with Immigration and Customs Enforcement (ICE) officers, it also prohibited local cities and counties from adopting policies that “discourage cooperation with federal immigration law,” effectively barring localities from becoming Sanctuary Cities.

2 ANTI-IMMIGRANT BILLS INTRODUCED & DEFEATED DURING THE SESSION

The second version of the bill, HB 198, did have considerable improvements – removing the law enforcement cooperation with ICE officials – but it did keep the anti-Sanctuary City prohibition.

By requiring local police to engage in federal immigration work, the bill would have destroyed the

ability of local law enforcement to build trust with immigrant and refugee communities to protect them from crime. The bill could have created an environment for racial profiling and open the door to constitutional rights violations.

Through our collaborative efforts with the Idaho Dairymen’s

Association, Food Producers of Idaho, and the Idaho Association of Commerce and Industry, we stopped both HB 76 and HB 198. In addition, several hundred ACLU of Idaho members and supporters showed up for both introductory hearings to send a strong message to the legislature that such anti-immigrant legislation and hateful rhetoric would not be tolerated in Idaho. Neither bill was granted a public hearing – an incredible victory for the 2017 session!



PROTECTING WOMEN’S ACCESS TO HEALTHCARE



0 ANTI-ABORTION BILLS THAT PASSED DURING THE 2017 SESSION

In a surprising turn of events, the Idaho Legislature did not pass a single piece of anti-abortion legislation this year! The only attack on women’s healthcare came in the form of SB 1131, introduced by Senator Lori Den Hartog (R – Meridian), which would have required medically inaccurate information in the state-mandated counseling that women must receive prior to an abortion by telling women where they could go to learn how to “reverse” their abortion. This proposal was based on junk science – a study conducted by an anti-abortion doctor that has been rejected by the medical community for harming women’s health choices. In the end SB 1131 was never granted a public hearing. Nevertheless, we expect this type of legislation to return next session and we will continue to work with our allied partners to stop any restriction on a woman’s right to reproductive care.

CRIMINAL JUSTICE LEGISLATION

The 2017 Legislative Session was dominated with criminal justice related bills, both good and bad. Here’s a quick run-down on Idaho’s continued progress for criminal justice reform.

Public Defense Rules

2017 marked the first year the Public Defense Commission (PDC) would introduce agency rules aimed at improving our broken public defense system. Last year’s landmark public defense bill required the Commission to create ten rules aimed at addressing workload and caseload standards, training opportunities, independence from political influences, and salary parity. But this year the PDC came forward with only four rules, including a caseload standard that didn’t include any meaningful limits on the numbers of cases public defenders should be expected to handle throughout the year. Despite hundreds of emails from ACLU supporters asking the Judiciary Committees to reject the rules, and significant questioning during the House Judiciary Committee hearing, the public defense rules were ultimately approved.

Heroin-Induced Homicide

Representatives James Holtzclaw (R – Meridian) and John Gannon (D – Boise) introduced HB 178 that would charge individuals who deal heroin with second degree murder if the person they sold to dies of a drug overdose. We opposed this bill, along with the Idaho Association of Criminal Defense Lawyers. Instead of recognizing substance abuse as the public health epidemic that it truly is, this bill would have continued the criminalization of drug abuse and increased incarceration rates. While HB 178 passed out of the House Judiciary Committee, we issued a floor statement urging a No vote and are pleased to report the bill died on the House floor.



750 EMAILS SENT TO THE HOUSE AND SENATE JUDICIARY COMMITTEE MEMBERS, IN LESS THAN 8 HOURS, ASKING TO REJECT MEANINGLESS PUBLIC DEFENSE COMMISSION RULES FOR DEFENDING ATTORNEYS

Mandatory Minimum Reform

**END
THE 40-YEAR
WAR ON
DRUGS**

Representatives Christy Perry (R – Nampa) and Ilana Rubel (D – Boise) introduced HB 179 that would remove the mandatory minimum sentences currently required for felony drug trafficking charges. HB 179 would have considerable impacts on our criminal justice system – restoring discretion to judges to determine an appropriate sentence, reducing

incarceration rates, and saving the State money for reduced drug trafficking sentences. While the bill was only given an informational hearing this session and was never brought to a vote, the hearing lasted for more than four hours and was overwhelmingly dominated by support for the bill, both from members of the public, criminal justice stakeholders, and legislators on the committee. Given the positive outcome of the hearing, we expect this bill to be reintroduced in 2018 and successfully moved through the legislature.

Victim’s Rights Constitutional Amendment

SJR 103 (referred to as “Marcy’s Law”) was introduced by Senator Todd Lakey (R – Nampa) early in the session, and was problematic from the get-go. While expanding victim’s rights sounded like a good idea, the on-the-ground implementation of this constitutional amendment exposes the harms this bill would create in our broader criminal justice system. The bill would have expanded the opportunities where victims could be heard during the criminal justice proceeding – increasing the length of trials and/or sentences which could violate criminal defendants’ right to due process, including a speedy trial. The new definition of victim was expanded to include corporations and other business interests, while offering no substantive funding to improve current victim rights programs. The proponents of the legislation were well-financed and engaged many lobbyists to push this legislation forward. Although SJR 103 sailed through the Senate, along with the Idaho Association of Criminal Defense Lawyers, we organized a coalition of opposition and provided persuasive testimony before the House State Affairs Committee which in turn, voted the bill down. The proponents have pledged to bring this bill back next year and even though session just concluded, are actively lobbying the legislative and executive branches. We plan to organize the opposition and once again work to stop this legislation in 2018.