



Idaho

Civil Rights Lawyers File Lawsuit in Federal Court Challenging Idaho’s Law Criminalizing Oral and Anal Sex

*ACLU of Idaho says enforcement of law, primary legal tool of the anti-gay
“Boise of Boise” prosecutions, is facially unconstitutional*

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BOISE – Late yesterday, a group of civil rights lawyers filed a federal lawsuit against Idaho Attorney General Lawrence Wasden and other government officials challenging constitutionality of Idaho’s “Crime Against Nature” statute. The statute criminalizes all oral and anal sex, even between consenting adults. The lawsuit was filed by the Law Office of Matthew Strugar, Boise law firm Nevin, Benjamin, McKay & Bartlett, LLP, and the American Civil Liberties Union of Idaho.

The case, *Doe v. Wasden*, was brought on behalf of an Idaho resident known as “John Doe” in the lawsuit to protect his privacy. Earlier this year, the Idaho State Police forced Doe to register as a sex offender because of an out-of-state conviction more than 20 years ago for having oral sex. Since then, in 2003, the U.S. Supreme Court’s landmark decision in *Lawrence v. Texas* held that anti-sodomy laws, including Idaho’s Crime Against Nature statute, violate constitutional protections under the Fourteenth Amendment. Yet Idaho is one of four states that continues to enforce its Crime Against Nature law by requiring people with convictions to register with the Idaho Sexual Offender Registry.

Matthew Strugar, one of the attorneys representing Doe, said: “More than 17 years ago, the Supreme Court declared homophobic laws like Idaho’s Crime Against Nature statute unconstitutional. Idaho ignores that ruling and continues to demand people who were convicted of nothing more than having oral or anal sex to register as sex offenders. Just as the state cannot criminalize those sex acts, it cannot force people with decades-old oral sex convictions to register as sex offenders.”

In Idaho and other states around the country, anti-sodomy laws have historically been used to criminalize sexual acts traditionally associated with homosexuality. From 1955 to 1957, Idaho's Crime Against Nature statute was the primary legal tool for the "The Boys of Boise" affair—one of the most virulent anti-gay witch hunts in American history. Idaho's Crimes Against Nature Statute remains virtually unchanged since its inception in Idaho's territorial days.

Link to complaint:

https://www.acluidaho.org/sites/default/files/field_documents/1_complaint_4.pdf

Link to motion for preliminary injunction:

https://www.acluidaho.org/sites/default/files/field_documents/4-1_brief_iso_motion_for_preliminary_injunction.pdf

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