80 days. That's how long the 2018 Legislative Session lasted.

And within those 80 days, we saw several highs and several lows throughout the process inside the Idaho Statehouse.

As we do with the start of every legislative session, we head to the capitol ready to defend the civil rights of all Idahoans. And despite a few losses, we're proud to share that this session has been a resounding success for the ACLU and for civil liberties. From stopping hateful anti-Muslim legislation to moving forward several proactive criminal justice reform bills and protecting public education, it was a busy, yet productive session once again.

BY THE NUMBERS

Days in the 2018 legislative session	80
Legislators in both the House and Senate	105
ACLU lobbyists present in the Statehouse	2
Bills tracked	66
Hearings where ACLU staff testified	20
Bills ACLU supported	12
Bills ACLU opposed	13
Trainings held to encourage the public to engage in the legislative process	3
Attendees at the ACLU Activist Training	125



ACLU

community members who showed up in opposition to the anti-Muslim, anti-Sharia law bill hearing

is model legislation from the American Public Policy Alliance, supported by groups like ACT America and

the Center for Security Policy – all known anti-Muslim hate groups that operate in the U.S. During the bill's hearing in the House State Affairs Committee, we packed the hearing room with people directly impacted by this bill's hateful intent, including members of the Muslim faith,

refugees and immigrants who call Idaho home. Despite overwhelming opposition to HB 419, the committee voted along party lines to move the bill forward to the House floor for full consideration. After a 44-24-1 vote (yay-nay-absent), the bill moved forward to the Senate. The Senate State Affairs Committee never scheduled a hearing on HB419, effectively killing it. We thank the Muslim community for its bravery and commitment to fighting against HB 419. And with the retirement of the bill sponsor from the legislature, we're hopeful this is the last time such a hate filled anti-Muslim bill will be considered at the Idaho Statehouse.

STOPPING ANTI-MUSLIM HATE LEGISLATION Anti-Sharia Law

2018 saw the third consecutive introduction of Rep. Eric Redman's (R – Athol) "American Laws for American Courts" bill, HB 419. Don't be fooled by the seemingly innocuous name. Despite its façade of protecting U.S. laws in Idaho courtrooms, this bill is deeply rooted in hate for members of the Muslim community. It speaks to a concern that "Sharia" law is being used in courtrooms across the state (even though there is no definitive proof that is the case). HB 419

WOMEN'S HEALTH Abortion "Reversal", Breast Feeding Exemption, 12 Months of Birth Control



Another legislative cycle means another attempt by Idaho politicians to insert themselves into the private medical decisions about women's reproductive health. Enter SB 1242, abortion "reversal" procedure, sponsored by Sen. Lori Den Hartog (R – Meridian) and Rep. Gayann DeMourdant (R – Eagle). This bill was based on the flawed and un-scientific study of six women by a known anti-abortion doctor. The study claims that women can "reverse" the outcome of a medication abortion by receiving an injecting of progesterone before they take the second pill in the two-pill medication abortion process. However, despite the fact that in the study four women carried their pregnancies to term, it's unclear if the sustained pregnancies were a result exclusively based on the injection or because the first medication is not designed to work on its own so the abortion does not complete. Even though there is overwhelming opposition to this "study" from medical providers, national physician groups, and the scientific community, Idaho lawmakers

approved their anti-science bill to require medical providers to distribute information about abortion reversal to patients seeking an abortion and SB 1243 was signed into law by Governor C.L. Butch Otter in March.

Along with the usual anti-abortion bills introduced this session, other bills focused on issues of concern to women. One successful bill was HB 448, introduced by Rep. Paul Amador (R - Coeur d'Alene), that provided women a breast feeding exemption from Idaho's public indecency laws. Idaho was the last state in the country that continued to criminalize women who exposed their breasts or breastmilk in public while

feeding their children. Thankfully, this bill had overwhelming support in both legislative bodies and was quickly signed into law. Less successfully,

major medical and scientific groups who accept "abortion reversal" as a viable

SB 1281, sponsored by Sen. Cherie Buckner-Webb (D -Boise) in partnership with Planned Parenthood would have authorized Idaho insurance companies to provide women with 12 months of birth control. In providing women with expanded access to contraceptive care, the change would have given women greater freedom and control in making their own family planning decisions. Unfortunately, what seemed like a common-sense bill with strong support from various groups in the state was held in the Senate Commerce & Human Resources Committee after its public hearing, effectively killing the bill for the year.

CRIMINAL JUSTICE BILLS GALORE



Driving Without Privileges

It's been years in the making, but we're happy to forfeiture reform bill from last year. Included in this report that driving without privileges (DWOP) reform year's legislative proposal were the same key tenets: has finally come to Idaho. Thanks to our bill sponsors, that mere presence of cash is not sufficient probable Sen. Dan Johnson (R – Lewiston) and Rep. Greg cause to seize said cash, that individuals can have Chaney (R - Caldwell), HB 599 addresses much needed their seized cars returned reforms to Idaho's broken DWOP system. Generally, to them if they can prove 2 new reporting DWOP charges stem from a license suspension for sufficient need to a judge, failure to pay legal fees or fines. When that occurs, requirements law and that local sheriff offices Idaho courts send notice to the Idaho Transportation must report on an annual Department to suspend an individual's license. Once basis how they use civil someone is caught driving with a suspended license, asset forfeiture policies in in Idaho's civil asset they are then charged with a DWOP, which results in their county. Throughout the forfeiture laws a mandatory jail sentence of two days upon the first summer of 2017, we worked charge. There are numerous reforms included in this with our bill sponsors, the bill. The reclassification of DWOP charges (simply Idaho Freedom Foundation, and the Idaho Association for failure to pay fines and fees) from a misdemeanor of Criminal Defense Lawyers to make certain that our to an infraction will shrink the number of criminal 2018 proposal would be accepted by law enforcement, charges that trigger the duty to provide a lawyer to the ensuring Governor Otter's signature. And on March defendant, therefore reducing one of the many burdens 21, Governor Otter did that. A major win for policing on our deficient public defense system. Removing the reform! mandatory minimum jail sentences attached to the

remaining misdemeanor DWOP charges will increase efficiency in the legal system by reducing pressure on our seriously over-populated jails and overburdened courts. And through the reinstatement of currently suspended licenses for failure to pay fines and fees, law-abiding, low-income drivers will be allowed to maintain their primary mode of transportation, preventing a loss of access to employment and allowing individuals to meet their many familial obligations dependent on their ability to drive.

Civil Asset Forfeiture

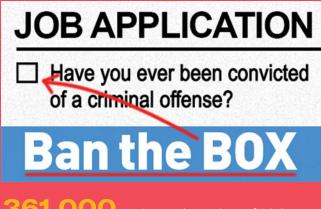
If this issue sounds familiar, that's because it is. In 2017, Governor Otter vetoed our civil asset forfeiture reform bill, but 2018 was our lucky year. Our bill sponsors – Reps. Ilana Rubel (D – Boise) and Steven Harris (R – Meridian) and Sens. Grant Burgoyne (D - Boise) and Cliff Bayer (R - Meridian) -- introduced HB 447, a slightly revised version of our civil asset

comply with to ensure increased transparency



Ban the Box

Given Idaho's addiction to incarceration, it's no surprise that roughly 21% of Idahoans have a criminal conviction on their record. These convictions are often significant barriers to accessing meaningful employment. That's where SB 1307 comes in: an equal employment opportunity bill to help those with criminal histories get pass the "box," the question on most employment application forms asking people to disclose if they have a criminal record. It's this "box" that keeps many from finding the employment so crucially needed when transitioning from incarceration back into the community. We worked with Sen. Cherie Buckner-Webb (D-Boise) as our bill sponsor to introduce SB 1307, which would have prevented employers from asking about one's criminal history or running a background check until after a conditional offer of employment was made. Despite a seemingly supportive introductory hearing for the bill in the Senate Judiciary & Rules Committee, we faced mounting opposition from the business and retailer lobby groups. Instead, we decided to hold SB 1307 in committee and to use the interim before the 2019 session to work on securing more support for the bill.



estimated number of Idahoans who have a criminal conviction on their record who face barriers when finding meaningful

Mandatory Minimum Sentencing Reform

Another repeat bill from the 2017 session, HB 581 was reintroduced to strike mandatory minimum sentences connected to drug trafficking offenses. The bill sponsors, Reps. Ilana Rubel (D - Boise) and Christy Perry (R – Nampa) fervently fought to get their bill a public hearing this year (in contrast with last year's information hearing where lawmakers did not vote

on the bill) and packed the House Judiciary, Rules & Administration Committee with concerned community members ready to testify in support of their bill. After hearing from partners and grandparents whose loved ones are incarcerated for years, from criminal defense lawyers, and from advocacy groups like the ACLU and Idaho Freedom Foundation, committee members voted the bill forward for a full debate on the House floor. Despite passage out of the House, HB 581 was ultimately held in the Senate Judiciary Committee. Perhaps a third year will be the charm to passing longoverdue sentencing reforms.



Stand Your Ground

Idaho is a proud Second Amendment-loving state, so it was no surprise that Stand Your Ground (SYG)/Castle Doctrine legislation found its way to Idaho despite serious concerns about increases in vigilante justice, loss of due process, and a rise in racial disparities regarding the application of SYG defenses. SB 1313, introduced by Sen. Todd Lakey (R – Nampa), is an NRA- sponsored bill that gives an individual the right to use deadly force to defend themselves without a duty to retreat from a dangerous situation if the individual believes force is necessary to prevent their death or serious bodily injury. Even though Idaho is already considered a SYG state (current rights are afforded through Idaho case law), lawmakers ignored concerns raised by numerous groups, including the ACLU, regarding how SYG laws exacerbate current racial bias and implicit bias inherent in our state's criminal justice system. The bill easily moved out of the Senate and House State Affairs Committees and was approved in the Senate and House along a party-line vote. While Governor Otter did voice concerns around how violence against "mischievous kids" would be justified, he ultimately allowed SB 1313 to become law without his signature.

Marsy's Law

Boise State University study of Idaho victim services that suggested victims of crime needed access to Here's another familiar piece of legislation from 2017 better funded state programs rather than enhanced that made its way back to the Idaho Statehouse. constitutional rights. After a close vote in the House HJR 8, known as Marsy's Law, sponsored by Rep. State Affairs Committee, HJR 8 ultimately died on the Brent Crane (R – Nampa), was an attempt to insert House floor after it failed to get a 2/3 majority vote to additional victim rights into our Idaho Constitution. move the constitutional amendment forward to the This California campaign, self-funded by a tech Senate. Despite two years of unsuccessful efforts, the billionaire, returned with a vengeance, employing multiple lobbyists and public relations firms in the Marsy's Law campaign remains well funded and has vowed to bring back its proposal in 2019. hopes of securing passage after its defeat in 2017. However, concerns regarding its impact on Idaho's already overworked and overburdened criminal justice system couldn't be overcome. The ACLU, Idaho Association of Criminal Defense Lawyers, and the Idaho Coalition Against Sexual & Domestic n a 2015 Boise State Violence reminded lawmakers that the on-the-ground University report regarding implementation of this constitutional amendment improvements that can be would result in due process violations for criminal made to Idaho's statewide defendants and create an unfunded mandate on victim programs that do Idaho counties responsible for implementing the new not recommend enhancing provisions under HJR 8. Approval would have also meant ignoring the recommendations of a recent

EDUCATIONAL CIVIL RIGHTS

Student Free Speech and Tax Credit Scholarships

This year we found ourselves working on several educational related bills- one that drastically reduces student free speech on school campuses and another related to the creation of tax-credit scholarships for students to attend private schools. HB 620, introduced by Rep. Jason Monks (R – Nampa), was a reintroduction of a bill we opposed last year. Although the bill attempted to regulate the use of public funds in school bond or levy elections, its wide scope resulted in the serious restriction of student free speech in K-12 schools and college campuses. The bill prohibits public entities from authorizing the use of public resources to advocate for candidates or ballot initiatives. Thus it would bar politically active student groups from meeting on school grounds and using school resources like computers and printers to organize themselves. Despite the significant First Amendment concerns with HB 620, the bill easily sailed through the legislative process and was signed into law by Governor Otter.

Thankfully we had more luck stopping HB 590, a bill introduced by Rep. John Vander Woude (R – Nampa) that would establish a tax-credit scholarship system to encourage Idaho students to leave public schools and



attend private schools. While proponents of the bill advertised it as a solution to school choice, it's clear that HB 590 was a school voucher bill in disguise. School voucher programs lead to the underfunding of public schools and fail to inform Idaho students that when they attend private schools, they lose access to federal educational civil rights protections – like non-discrimination protections for LGBTQ students and resources for students with disabilities. With overwhelming opposition from the ACLU and education groups such as the Idaho Education Association and Idaho School Boards Association, HB 590 was ultimately held in the Senate Education Committee and killed for the session.





HONORABLE MENTIONS Bills that Died and Bills for 2019



Call for a Constitutional Convention HCR 32, sponsored by Rep. Tom Loertscher (R – Iona), was Idaho's

latest attempt to join national calls for an Article V Constitutional Convention. Even though previous bills were killed in years past, that didn't stop the Idaho Legislature from considering this contentious issue yet again. After moving out of the House State Affairs Committee, HCR 32 was killed on the House floor due to fears that it would open the door for reconsideration of the US Constitution in its entirety.

Severe Mental Illness Death Penalty Exemption

This was our second year trying to build legislative support for our severe mental illness death penalty exemption bill. As a member of the statewide coalition IASMIE (Idaho Alliance for the Serious Mental Illness Death Penalty Exemption), we had hoped to host an informational hearing for members of the House Judiciary, Rules and Administration Committee. During this hearing we planned to present a panel of medical, legal, and mental health experts to discuss the need to exempt individuals with severe mental illness from receiving a death sentence and to gauge lawmakers' interest in addressing this issue during the 2019 legislative session. However, timing was not on our side and our hearing was cancelled due to the impending adjournment of the legislature. With our IASMIE partners, we plan to use the interim months to regroup and focus on our legislative goals for 2019.

Expedited Tenant Eviction

HB 583, introduced by Rep. Caroline Troy (R -Moscow) was a bill brought by the Idaho Apartment Association that would have disproportionately targeted housing tenants that are domestic violence victims, people of color, and low-income renters. The bill would have permitted landlords to evict any tenant if a crime was committed on the property, regardless of whether the tenant themselves committed the crime or whether they were formally charged with any criminal wrongdoing. It would also allow landlords to evict tenants under an expedited eviction process, leaving tenants little time to counter any alleged criminal actions. Fortunately, the bill was never given a public hearing and died in the House Judiciary, Rules and Administration Committee. However, we expect to see this bill return in 2019 and will be working with our housing partners in the interim to stop this bill before it gets a chance to return.



ACLU of Idaho 2018 Legislative Scorecard

WHY THE SCORECARD IS CREATED

We created our legislative scorecard to let you know where your legislators stand on a number of civil liberties issues. We encourage you to use this scorecard to give your state Representative and Senator feedback on their votes in the 2018 Legislative Session. Direct communication with your elected officials is a valuable way to encourage them to stand up for freedom and protect our constitutional rights.

HOW THE SCORECARD IS CREATED

We make sure that all legislators know our position prior to voting on important civil liberties issues by distributing a floor statement explaining our position. We then select a range of key civil liberties issues to include in our scorecard. This year, many bills that originated in the House and were approved there were ultimately held in Senate committees, effectively killing them. Thus, we score the House on more bills than the Senate. Non-Discrimination H.B. 419 Anti-Sharia Law Sponsor: Rep. Eric Redman (R - Athol)

KEY POINTS:

- · Model legislation from American Public Policy Alliance, known anti-Muslim faith group, that bars consideration of international law if the country of origin does not provide same fundamental freedoms as U.S. and Idaho Constitutions
- · Based on unfounded fears that Sharia law is taking over American courts, despite zero documented cases
- · Fosters climate of anti-Muslim rhetoric in Idaho, targeting members of one particular faith group
- · Creates unintended consequences for families, immigrants, and refugees who rely on international law for foreign marriages, adoptions, and legal agreements

Criminal Justice H.B. 447 Civil Asset Forfeiture Reform Sponsors: Reps. Steven Harris (R – Meridian) and Ilana Rubel (D – Boise) KEY POINTS:

- Provides a way for seized property to be returned to an owner if they can show just cause to a judge
- Instructs law enforcement that the mere presence of cash is not an appropriate basis to seize cash on hand
- Creates mandated reporting requirements that will shed light on patterns of abuse and targeted policing that can be used to identify opportunities for future legislation

Education H.B. 590 Tax Credit Scholarships

- Sponsor: Rep. John Vander Woude (R Nampa)
- KEY POINTS:
- · Creates tax-credit scholarship program to encourage attendance at private, religious schools in Idaho
- If student uses scholarship from program, they must sign agreement that they will not attend public school full time
- Doesn't inform students that they lose critical federal educational civil rights protections when they move to private schools, such as non-discrimination protections and resources for students with disabilities
- · Sets up Idaho for full-blown voucher system that will undermine and underfund Idaho's public schools

Criminal Justice H.B. 599 Driving Without Privileges Reform Sponsors: Rep. Greg Chaney (R – Caldwell) and Sen. Dan Johnson (R – Lewiston) KEY POINTS:

- Reclassifies misdemeanor driving without privileges (DWOP) charges (incurred for failure to pay fines and fees) to an infraction
- Removes mandatory minimum sentences attached to all remaining misdemeanor DWOP charges
- Reclassifies driving with an invalid license from a misdemeanor to an infraction for the first two offenses
- Allows for previously suspended drivers to get their licenses reinstated upon application



ACLU opposed **Passed House**

Died in Senate State Affairs Committee



ACLU supported **Passed House &** Senate

Signed by **Governor Otter**



ACLU opposed



ACLU supported Passed House

& Senate

Signed by **Governor Otter**

Free Speech H.B. 620 Restrictions on Student Free Speech Sponsor: Rep. Jason Monks (R – Meridian) KEY POINTS:

- Bars public entities from authorizing public resources (meeting space, computers, printers, etc.) to be used to "advocate" for candidates for ballot initiatives
- Restricts First Amendment protected speech for those working in and attending Idaho's public schools and universities, specifically around the "advocacy" of candidates or ballot initiatives
- Authorizes local prosecutors or Attorney General to investigate individuals believed to have violated provisions of the law, citing them with financial penalties

Criminal Justice H.J.R. 8, Marsy's Law Victims Right **Constitutional Amendment** Sponsor: Rep. Brent Crane (R – Nampa)

KEY POINTS:

- California campaign aimed at expanding crime victim rights at the expense of creating chaos in our broader criminal justice system
- Creates unintended consequences such as violating criminal defendants' right to due process and right to a speedy trial
- Establishes new state responsibility to provide victims legal representatives all while providing no funding to improve current victim rights programs
- Ignores recommendations of Boise State University study of victim experiences accessing Idaho specific victim programs

Women's Health S.B. 1243, Abortion "Reversal" Procedure Sponsor: Sen. Lori Den Hartog (R – Meridian) KEY POINTS:

- · Requires doctors to share informed consent materials with patients (distributed before receiving an abortion) that instructs women where to get information regarding the abortion "reversal" procedure
- · Legislation is based on study of six women by a known anti-abortion doctor whose results have been widely discredited by major medical and scientific groups

Racial Justice S.B. 1313, Stand Your Ground/Castle Doctrine Sponsor: Sen. Todd Lakey (R - Nampa)

- **KEY POINTS:**
- · Allows an individual to use deadly force to defend themselves without a duty to retreat from a dangerous situation if the individual believes force is necessary to prevent their death or serious bodily injury
- · Similar laws across the country have been linked to increases in justifiable homicides upon passage
- Exacerbates already present racial disparities and implicit bias inherent in Idaho's criminal justice system
- · Violates principles of due process for individual who is wounded or killed



Passed House State **Affairs Committee**

Died House floor



ACLU opposed **Passed Senate** & House

Signed by **Governor** Otter

Passed Senate & House

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