

## MISDEMEANOR REFORM

2015 saw the passage of five bills aimed at reducing certain first time misdemeanor offenses to a civil infraction, and 2016 continued that trend. HB 494a reduced a first time minor in consumption and/or minor in possession charge from a misdemeanor to an infraction where the individual would only need to pay a fine instead of facing possible jail time. Passing sentencing reform legislation ensures that Idaho's jails and prison are used for those who commit crimes deserving of incarceration. It also allows stakeholders in the criminal justice system to collaborate in finding appropriate alternative sentencing to avoid unnecessarily increasing Idaho's incarceration rates.

**1,089** MINOR IN CONSUMPTION AND/OR  
MINOR IN POSSESSION CHARGES IN FY 2013\*

\*Denotes most recent court information available

## VOTING RIGHTS

Idaho is now getting an online voter registration system thanks to the passage of SB 1297a. This bill instructs the Secretary of State's office to create an online voter registration system – both modernizing our voting systems in Idaho and also providing expanded registration access for Idaho voters. Creating an online voter registration system is convenient for voters and helps reduce errors in processing voter registration – a win/win for everyone!

**35 STATES** ALLOW ONLINE VOTER REGISTRATION, INCLUDING IDAHO

## WHAT'S MISSING – OH YEAH, ADD THE WORDS

After last year's heart breaking "no" vote on moving forward a bill that would bar discrimination against gay and transgender Idahoans, we came into the 2016 Session with high hopes to succeed in passing Add the Words legislation. However, the potential so-called "compromise" bills that Senate leaders were working on never materialized due to concerns around the need to protect religious freedom. For the 11th year in a row, the LGBT community will see no relief provided to them, but we can guarantee our supporters that we'll be back at the statehouse in 2017 demanding equality.



# ACLU

AMERICAN CIVIL LIBERTIES UNION  
of IDAHO

# Legislative Recap 2016

The ACLU of Idaho entered the 2016 Legislative Session with an impressive docket of priorities we planned to advance throughout the eleven week session. From enacting landmark public defense reform, to demanding non-discrimination protections for gay and transgender Idahoans, and fighting against measures that perpetuate Idaho's over-incarceration policies, our legislative staff was committed to ensuring that the civil rights of Idaho citizens were protected and advanced inside the Statehouse.

## PUBLIC DEFENSE REFORM



For over half a decade, the ACLU of Idaho has consistently been asking state lawmakers to address our broken and unconstitutional public defense system.

Lawmakers have known about the injustices that Idahoans

have faced as they've entered a courtroom with a public defender at their side that is too over-worked and left with little financial resources to adequately defend their client's Sixth Amendment right. Instead, Idaho legislators have chosen to create interim committees and commissions in lieu of legislative action – kicking the can down the road instead of addressing the systemic faults in our state's public defense systems.

With the successful passage of HB 504 thanks to our multi-year lobbying efforts, Idaho's public defense systems will see the first set of foundational reforms enacted in the history of the state. This legislation will outline standards to assist public defenders – including increased parity in pay between public defender's and prosecutors, providing for private meeting space to protect attorney/client confidentiality, and establishing caseload and workload standards for attorneys – along with granting additional dollars to counties to supplement their funding options for public defense. It will also grant the Public Defense Commission enforcement authority to

hold counties accountable for providing a constitutional level of public defense. This legislation, with its partner appropriations bill, will also secure state funding for public defense in Idaho, the first time the legislature has provided sorely needed funding for on-the-ground trial level public defense.



## BY THE NUMBERS

Days in the 2015 legislative session	77
Legislators in both the House and Senate	105
ACLU lobbyists present in the Statehouse	1
Bills tracked	44
Hearings where ACLU staff testified	14
Bills ACLU supported	15
Bills ACLU opposed	17
Activist trainings held to encourage the public to engage in the legislative process	1
Attendees at the ACLU Activist Academy	50

## RELIGION IN THE PUBLIC SPHERE

This session was marked by the introduction of several bills aimed at inappropriately inserting religious belief and intolerance into Idaho's public schools and court systems.



Let's start first by celebrating our largest victory of the 2016 Session - the successful veto of SB 1342a by Governor C.L. Butch Otter. SB 1342a would have authorized the use of the Bible in science classes if a teacher believes it "may be useful or relevant," despite that courts have resoundingly said teaching creationism or "intelligent design" in science classes is unconstitutional. Despite our efforts lobbying members of the House and Senate about our legal concerns with the bill, and a disapproving Attorney General

opinion claiming violations of Idaho's Constitutional prohibition on the use of any religious texts in public schools, the bill passed both houses and was sent to Governor Otter's desk for his signature. We immediately acted, sending Gov. Otter a letter requesting his veto and

initiating an online veto campaign encouraging our supporters to contact the Governor and share their concerns. On April 5th, Governor Otter vetoed SB 1342a citing the bill's unconstitutional nature and his interest in protecting schools and teachers from ongoing liability.

HJR 1 was introduced early in the session and quickly became a top priority to defeat. The joint resolution was a back-door attempt to create a voucher system in Idaho that makes it easier to funnel taxpayer dollars out of public schools and into private or religious schools. While HJR 1 was shielded as an attempt to support school choice for Idaho families, it would have violated the Idaho Constitution by compelling Idaho

taxpayers to financially support religious schools despite the state's constitutional prohibition that public funds should not be used for religious purposes. Ultimately the bill was not given a public hearing due to the legal concerns we raised, and while it did not move forward this session, we expect that this legislation will return next year for us to once again defeat.

HB 568 was introduced in the final weeks of the session due to an unfounded concern that so-called "Sharia law" is overtaking Idaho courts. The bill attempted to prevent Idaho courts and judges from considering court rulings from other countries unless that country provided its citizens the exact same fundamental liberties as the U.S. and Idaho Constitutions - a feat difficult to meet even with our most democratic allies. Our legislative staff took quick action, informing legislators that the bill would create significant unintended consequences in the everyday lives of Idahoans who marry abroad, file for divorce, adopt children from overseas, or conduct other family matters that involve foreign or international law. After a public hearing in the House State Affairs Committee, the bill was held to add amendments, but was never reconsidered, effectively dying. We remain committed to fighting any legislation that attempts to undermine the religious diversity we value in our state and will actively work to stop intolerance directed at those who practice the Muslim faith.

SHARIA LAW  
HAS BEEN USED  
**0 TIMES** IN  
IDAHO COURTS

## RESTRICTIONS ON WOMEN'S REPRODUCTIVE HEALTHCARE

Another legislative session brings renewed interest in restricting women and their right to make their own private medical decisions.



These legislative attacks are part of a nationally coordinated effort to chip away at women's reproductive health options and in 2016 we saw three such attempts at ongoing restrictions. HB 516 shames women

after they've made the personal, private decision to terminate their pregnancy by requiring physicians to inform their patients where they can get a free ultrasound to see an image of the fetus and listen to a fetal heartbeat. This served only one purpose - to funnel women into crisis pregnancy centers. Such facilities are known for shaming women out of their abortion decisions, and may not have the appropriate medically trained staff on site, nor inform women of all their medical options for reproductive healthcare such as contraception use or where to access abortion care.

An even more frightening bill was SB 1386, which attempted to restrict a very common second trimester abortion procedure, despite courts in Oklahoma and Kansas striking down similar laws and deeming them unconstitutional. This bill would have

drastically curtailed Idaho women's access to safe and legal abortion care - a clear violation of a woman's constitutional right to choose. Thanks to the lobbying efforts of the ACLU and our partners Planned Parenthood this bill was not given a public hearing and did not move forward this session.

Idaho was also not immune to unjust attacks against Planned Parenthood after last year's video scandal against the women's health organization.

Legislators introduced SB 1404a which attempted to ban the selling of fetal tissue in Idaho - an act that no organization or medical facility was conducting in Idaho. This legislation also banned the donation of fetal tissue for research throughout the state, effectively terminating opportunities for medical advancement - like discovering the polio vaccine or research on Down Syndrome - from occurring in Idaho.

**3 ANTI-ABORTION  
BILLS INTRODUCED  
DURING THE SESSION**

## PRIVACY RIGHTS

One of the most contentious issues of the legislative session was HB 513a, which rendered ineffective Idaho's 2009 ban on implementing the Real ID Act of 2005. As an organization dedicated to protecting the privacy rights of Idahoans, we were deeply concerned by HB 513a's attempts to comply with Title II of the Real ID, which authorizes the Department of Motor Vehicles to scan and store copies of our primary source documents to then be shared in a 50-state shared database. Those documents include items such as one's social security number, birth certificate, home address and other personal identifying information, making it a one-stop-shop for identity thieves. Despite raising our concerns and working with legislators to introduce amendments that would have prevented the storing, databasing, and sharing of Idahoan's personal information, the bill was passed out of both houses and signed into law by Governor Otter.

