

How Civil Liberties Fared in the 2014 Legislature

The 2014 Washington legislative session wrapped up in March with some noteworthy victories for civil liberties. In the most high-profile win, the Governor signed into law a version of the ACLU-backed DREAM Act to enhance access to higher education for immigrant youths. The legislature also passed bills providing for attorneys for children in dependency proceedings and for keeping juvenile records confidential.

Our lobbying efforts also helped block several proposals that would have eroded civil liberties, including bills to collect DNA from arrestees, to allow for warrantless searches of students, to burden initiative signature gatherers, and to impose on poor people the cost of indigent defense.

The ACLU-WA again pushed for reasonable regulations on government use of drones. With Boeing dropping its previous opposition, a bill passed the House and Senate by wide margins. We were deeply disappointed when the Governor vetoed it. We also were chagrined that measures to protect reproductive freedom and voting rights failed to receive a vote by the full Senate after passing the House; we took heart that the Voting Rights Act progressed farther than before.

Here are highlights of some key bills impacting civil liberties. See our website for information on other measures.

IMMIGRANT RIGHTS

Access to Higher Education – SB 6583

Position: support

Sponsor: Rep. Zack Hudgins

Outcome: Governor signed into law

Aspiring young people should have a fair opportunity to attend college, regardless of their immigration status. To that end, the new law extends eligibility for financial aid for higher education to high school graduates who do not have legal residency but were brought to the U.S. as young children. Their cause was widely seen as a matter of fairness and picked up bipartisan support. The bill is a version of the DREAM Act titled the REAL Hope Act.

SURVEILLANCE

Regulating Government Use of Drones – SB 6172

Sponsor: Sen. Jim Hargrove

Position: Support

Outcome: Passed House and Senate, vetoed by Governor

Law enforcement and other government agencies increasingly are interested in acquiring unmanned aerial vehicles – aka drones. Drones can be used for missing person searches and for barricaded hostage situations. But they present government with unprecedented capabilities for tracking activities and otherwise invading the privacy of law-abiding people. Washington law contains no limits on government uses of this technology, or what protections are needed for liberty, privacy, and accountability. Clear restrictions are needed now, as temptations for law enforcement to employ drones for more and more intrusive missions are inevitable.

The bill would have required state or local government to get prior approval for acquiring drones and required law enforcement to get a warrant for their use, except in limited circumstances. The measure drew strong support across party lines and backing from the WA Assn. of Sheriffs & Police Chiefs, but strong opposition from newspaper publishers and some state agencies. In vetoing the bill, Gov. Inslee acknowledged privacy concerns and announced a 15-month moratorium on executive-branch agency purchase or use of drones. He also is creating a task force to examine drone use and develop a new bill for 2015.

REPRODUCTIVE FREEDOM

Reproductive Parity Act – HB 2148

Position: support

Sponsor: Rep. Eileen Cody

Outcome: Passed the House, but did not pass the Senate

Denying insurance coverage for abortion interferes with a woman's freedom to make decisions about pregnancy that are right for herself and her family. The Reproductive Parity Act (RPA) would hold insurance companies accountable to women by requiring that insurance plans in Washington cover abortion if they cover maternity care. The ACLU-WA has worked with NARAL Pro-Choice Washington, Planned Parenthood Votes NW, Legal Voice, and other pro-choice advocates for its passage.

As our state proceeds with the implementation of the federal Affordable Care Act (ACA), the need for the RPA has become urgent. Some insurance companies have dropped coverage for elective abortions through the Washington State Health Benefit Exchange, and there is confusion surrounding others. Enactment of the RPA would continue our state's strong tradition of providing legal protections for reproductive freedom.

VOTING RIGHTS

Washington Voting Rights Act – SHB 1413

Position: support

Sponsor: Rep. Luis Moscoso

Outcome: Passed the House, but did not pass out of Senate Rules Committee.

The ACLU-WA worked with the Win/Win Network, OneAmerica, the League of Women Voters, and others for legislation to ensure all communities have a fair chance to elect candidates of their choice in local elections. For government to be accountable, all voices need to be heard. But some election systems prevent all communities from being represented in local government. Where communities vote in blocs, slim majorities can dominate.

The Washington Voting Rights Act would enable local jurisdictions to craft solutions to problems caused by racially polarized voting. And if they fail to do so, it allows for a lawsuit in state court with a judge tailoring a solution, such as moving from an at-large to a district-based system. It would enable local governments to remedy inequities and avoid expensive federal litigation. After passing the House, the bill passed out of the Senate Government Operations Committee and came within one vote of making it out of the Rules Committee for a floor vote.

PRIVACY

Taking DNA from Arrestees - SB 6314

Position: oppose

Outcome: Did not pass out of Senate Law & Justice Committee

This bill would have allowed the collection of DNA samples from people who have been arrested but not convicted of any crime. DNA contains highly personal biological information, including information about genetic disorders, susceptibility to diseases, predisposition to traits, and more. Collecting samples invades privacy, and doing so without a conviction likely violates the state constitution.

There is no systematic study that shows this kind of DNA collection actually has reduced crime in state which have implemented it. But it has worsened crime lab backlogs And collecting, processing, and analyzing DNA from arrestees would be expensive. Fiscal notes for such bills that the legislature has rejected in the past have reached a high as \$1.6 million. We could better use these resources for less-intrusive crime-fighting tools and to restoring past cuts to victims' services.

Confidentiality of Juvenile Records – ESHB 1651

Position: Support

Sponsor: Rep. Ruth Kagi

Outcome: Governor signed into law

Currently, juvenile offense records in Washington are not only public but also published online. This can prevent young people – disproportionately youth of color – from obtaining the education, employment, and housing needed to succeed as adults. The legislation will keep confidential most, but not all, juvenile records, while assuring that law enforcement, courts, and researchers have access to the records they need to maintain public safety and improve our juvenile justice system. It supports the juvenile justice system's goal of rehabilitating youth offenders into productive members of society by giving them a second chance at success.

YOUTH RIGHTS

Student Searches – SB 6023

Position: oppose

Outcome: Passed out of Senate Law & Justice Committee, did not pass out of Senate Rules Committee

Problematic legislation would have allowed police to conduct a warrantless search of a student at school – without any safety concerns and without any probable cause to believe the student has violated the law. The bill was unnecessary because school officials already have the authority to conduct searches in response to imminent safety threats. The measure likely would increase the criminalization of students involved in minor school misconduct, disproportionately impacting students of color and leading to a costly increase in dropout rates.

Attorneys in Dependency Proceedings – ESSB 6126

Position: support

Sponsor: Sen. Steve O'Ban

Outcome: Governor signed into law

Some children remain in foster care following the termination of the parent-child relationship. These children have legal rights but no longer have a parent to advocate on their behalf, and no one else represents their legal interests. The bill addresses this by requiring that the court appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent-child relationship.

CRIMINAL JUSTICE

LFOs – Court-Imposed Debts - HB 2751

Position: support

Sponsor: Rep. Mary Helen Roberts

Outcome: Had joint hearing before House Judiciary and Senate Public Safety Committees, but did not advance in either house

Comprehensive reform is needed for our state's system for imposing and collecting Legal Financial Obligations (LFOs), the debts that courts impose on top of a criminal sentence. These accrue interest at a rate of 12% a year and create a formidable barrier to re-entering society for impoverished people who cannot pay them. Individuals can remain tied to the criminal justice system for years and even can be locked up for debts they lack the means to pay.

The legislation would have required courts to consider an individual's poverty before imposing any court costs or fees, would allow courts to waive any fines and fees if payment could cause undue hardship to the defendant. In addition, it would have ensured that no court collections fees are paid before restitution payments to victims are satisfied.

Burdening the Poor for Indigent Defense Costs – SB 6249

Position: oppose

Outcome: Passed the Senate, did not pass out of House Judiciary Committee

Our state Constitution mandates the right to court-appointed counsel to ensure due process and fairness in the justice system. 80% or more of misdemeanor defendants are indigent and thus unable to pay for the cost of their appointed lawyer. This legislation wrongly would have raised fees imposed by courts on indigent defendants in order to pay for their defense. The government should fulfill its constitutional duty to fund indigent defense rather than shifting it onto the backs of those who can't afford it.

FIRST AMENDMENT**Signature Gathering for Initiatives – HB 2552**

Position: oppose

Outcome: Passed the House, did not advance in the Senate

This bill would have required anyone paid to gather signatures for initiatives in Washington to register with the state and complete a training program. It imposed many requirements on signature gatherers, including a background check; identification and bi-annual registration carried at all times; and a signed statement by the sponsor and gatherer acknowledging libel for any violations. These requirements would restrict political speech in violation of the 1st Amendment and would wrongly burden the constitutional right of the people to participate in the legislative process.

DEATH PENALTY

Safe and Just Alternatives – HB 1504

Position: support

Sponsor: Rep. Reuven Carlyle

Outcome: Did not advance in the House.

Across the country, there is a growing recognition the death penalty is costly and ineffective. Each death penalty case costs millions of dollars, much more than imprisoning someone for life. The fiscal note for SB 1504 estimates that eliminating the death penalty would save nearly \$2,000,000 a year for counties in prosecution, defense, and expert witness costs. Further, the death penalty is applied unevenly; whether or not someone receives a death sentence depends largely on a person's income and where the crime occurred. And it is an irreversible punishment that carries the risk of executing innocent people.

The ACLU-WA advocates ending the death penalty. Our state could better use resources spent on the death penalty to support proven strategies for fighting crime and addressing the needs of crime victims and communities.