



2011 Florida Legislature – No Personal Freedom Safe

It is no hyperbole – the 2011 Florida Legislative Session was one of the most brutal assaults on the civil liberties of Floridians in memory. Policy makers who were swept into office by the 2010 Tea Party wave regarded the bedrock principles of democracy and civil liberties as barely a stumbling block in their rush to push a political agenda that undermines critical constitutional values.

The ACLU of Florida worked hard to defend civil liberties, and even won some victories – in an extremely hostile climate. Given the sheer volume of proposed legislation to limit our freedoms, the session could have been a great deal worse. However, that is cold comfort as we survey the damage.

Government Funding of Religion: For nearly a century and a half, the “No Financial Aid to Religion Clause” – often known simply as the “No Aid” – has served as the Florida Constitution’s clear and unique check on government’s power to fund religious activities or limit the free exercise of religion.



But the Legislature is asking voters to repeal this essential barrier between church and state ([HJR1471/SJR1218](#)). If repealed, the state could be allowed to provide direct financial aid to religious institutions.

During debate, lawmakers misleadingly referred to the plan as the Freedom of Religion Act when it’s really just a scheme to funnel tax dollars to religious groups.

Nonetheless, the dangerous amendment passed the House late in the session and the Senate passed it by a 26-10 vote – just two more than the 60% supermajority needed. **Voters in 2012 will decide whether the ban on state funding for religious institutions is removed from Florida’s constitution which would open the door to direct state sponsorship of religion.**

Assaults on Reproductive Freedom: The 2011 Session was an all-out assault on women’s rights and reproductive freedom. A total of 18 separate bills were filed on nine different topics aimed at restricting, discouraging or outlawing access to legal medical care.

A bill passed restricting the process by which a minor may seek a judicial “bypass” ([SB1770/HB1247](#)) to the parental notification requirement when seeking to terminate a pregnancy. A weakened mandatory ultrasound bill ([SB1744/HB1127](#)) passed which requires doctors to perform the procedure but does not require a viewing of the results, or hearing a description of the images, as originally proposed. A bill banning insurance coverage for pregnancy terminations in government exchanges created by the federal Affordable Care Act ([SB1414/HB97](#)) passed. And another bill sending money from the “Choose Life” license plates directly to Choose Life, Inc., instead of local governments for assisting pregnant women ([SB196/HB501](#)) also passed. Finally, **a proposed amendment to Florida’s Constitution ([HJR1179/SJR1538](#)) prohibiting the use of tax dollars for abortion with a few exceptions, and limiting Florida’s unique Constitutional right to privacy in future abortion-related cases passed and is slated for the 2012 ballot.**





Only four of the 18 original bills passed and only one of those passed without substantive amendments. A bill completely banning all abortions failed as did a ban on third trimester terminations. A bill creating a Nebraska style twenty-week ban only made it through one House committee, was significantly weakened, and then died. No “fetal personhood” bill was filed this year.

Restrictions on Voting: In what was a theme for the 2011 Session, a major change to existing law was drafted and passed with little notice or public comment which will make it harder to register to vote, harder to vote, harder to have your vote counted and places new restrictions on vote monitoring, election auditing and freedom of speech.

DON'T VOTE.



House Bill 1355 (SB2086) limits access to voting by cutting the number of early voting days from 14 to just eight. The bill requires a person registering voters to file papers with the state and imposes new fines on third party registration organizations such as the League of Women Voters for failing to turn in voter registration applications within a new 48 hour time limit. It also cuts the duration of validity for signatures on a

ballot initiative in half from four to two years. Another provision – this one aimed at students – requires the use of a provisional ballot by anyone changing an address from another county. The bill also greatly expands the “no solicitation” zone for voters wherein speech – including legal advice – is prohibited.

Just before the 2011 Session, the Board of Executive Clemency (Governor Scott and the elected members of the Cabinet) voted to roll back restoration of voting rights for former felons – putting access to the ballot even farther away from hundreds of thousands of Floridians.

Immigration Victory: One of the most visible successes this Session was the defeat of the effort to “reform” immigration policy by creating an Arizona-type approach to state and local enforcement of immigration policy.

Even though immigration is the sole jurisdiction of the federal government, the major proposal, **Senate Bill 2040**, would have opened the door to local enforcement of immigration policy and mandated employers in Florida verify citizenship of new employees with the use the unreliable and expensive “E-verify” system or something similar. The proposal would also have greatly expanded police powers allowing local enforcement to enforce immigration laws and made racial and ethnic profiling into a legal police tool.



The Senate passed the measure after refusing to adopt the “E-verify” requirements and the House would not take the proposal without “E-verify” so the proposal died.

Court Packing Fades: A proposed Constitutional Amendment pushed by House Speaker Dean Cannon to spilt the Florida Supreme Court in two and allow Governor Scott to name three new Justices (**HJR7111**), was greatly modified but passed. The ability to appoint new Justices to a larger, fractured court was gone, but **a 2012 ballot proposal still allows the Legislature to void some court rules and access previously secret judicial investigations.**



More Drug Testing: A bill to drug-test applicants for Temporary Assistance for Needy Families (TANF) (SB556/[HB353](#)), a campaign promise of Governor Scott, passed.

The bill requires the test of all new applicants without regard for reasonable suspicion – the Senate rejected an amendment that would have required the test only for applicants with a prior drug-related conviction. House Bill 353 also requires the applicant to pay for the test (costs can be refunded later if the test results are negative) and failure of the required test will result in loss of benefits for one year.



The Legislature also briefly considered, but did not pass, more suspicionless drug testing for those seeking unemployment benefits ([SB302](#)) and before the session, Governor Scott signed an Executive Order requiring suspicionless drug testing for all state employees.



Free Speech Restrictions: While attempting to compel speech in some doctor-patient conversations through a required ultrasound, the Legislature also sought to eliminate other speech by making sure a doctor could not ask about something else: guns.

A Senate proposal ([SB432](#)) originally made it a crime with up to a \$1,000,000 fine for a doctor to ask if a patient had a gun at home. After several amendments, the final, approved bill allowed doctors to ask patients about guns but only if they believe the information is necessary to medical care. The bill also makes clear a patient is not obligated to answer.

Progress Made: An ACLU of Florida initiated push to ban shackling or restraining an incarcerated woman during childbirth and for related medical care, ([SB1086/HB779](#)) passed each of its House Committees and won unanimous support in the Florida Senate – a major accomplishment since it usually takes three to five years to pass a new law.

The Legislature also passed a measure ([SB146/HB449](#)) breaking the link between a felony conviction and business and occupational licenses – a practice that put as many as 40% of all Florida jobs off limits to former offenders.

Drug Courts were also expanded as a sentencing option in eight counties under [Senate Bill 400](#), which has already been signed into law. The expanded options will help keep non-violent drug offenders out of the criminal justice and prison systems.

School Prayer and Teaching Religion: Efforts to allow school prayer were back in the Legislature in 2011 – ([SB700/HB309](#)) would have allowed student-led, non-sectarian prayers at student functions. And another bill ([SB1854](#)) would have opened the door to the teaching of the biblical story of creation in science classes. Both bills died in committee.

