



Written by [Alex Newman](#) on January 31, 2018

Idaho Moves Bill Nullifying NDAA Indefinite Detention

Lawmakers in Idaho voted unanimously Wednesday morning to move forward legislation that would prohibit the indefinite detainment of Americans by the federal government or anyone else in that state. If passed into law, the bill would nullify unconstitutional provisions of the infamous 2012 National Defense Authorization Act (NDAA), which purported to authorize the capture and imprisonment of citizens by the military without any semblance of due process. While some local governments in Idaho have already passed similar measures, activists and lawmakers say it is important that residents all over the state be protected from the unconstitutional abuses by the federal government. After being approved in a committee hearing, the measure now moves on to be formally considered by the legislature.



The indefinite detention provisions of the 2012 NDAA, [passed by Congress and signed by Obama](#), pretended to authorize the U.S. military to arrest and detain indefinitely anyone whom federal officials claim is a “suspected terrorist.” Under the scheme, even U.S. citizens captured in America could be held in a military facility forever without even being accused of wrongdoing or formally charged with a crime — much less having a trial by jury, legal counsel, or an opportunity to present evidence and contest the detainment. As neoconservative globalist U.S. Senator Lindsey Graham (R-S.C.) put it while shilling for the measure, “it designates the world as the battlefield, including the homeland.” Graham also ridiculed those who would someday be detained under the measure: “Shut up! You don’t get a lawyer!”

Ostensibly a tool for waging the global so-called “terror war” even within the “Homeland,” critics say the NDAA measure is a blatant violation of the U.S. Constitution, the God-given rights protected under it, and Anglo-Saxon legal traditions of due process going back more than a millennium. In fact, so outrageous are the relevant provisions trampling due process and other inalienable rights that the scheme sparked rare unity across the political spectrum. At least on indefinite detention by the military, conservatives, liberals, Tea Party activists, constitutionalists, Occupy Wall Street protesters, and more have all joined forces — and not just because all of those groups and many others have been identified as potential extremists or terrorists in government documents.

The bipartisan unity on this issue was evident in Idaho, where the legislation to nullify the NDAA was sponsored by a Republican and a Democrat, and was supported by activists on the Left, the Right, and everywhere in-between. Lawmakers from both parties also voted unanimously to move the bill forward after its initial hearing in committee, known as a “print” hearing because it determines whether the bill



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will be printed and considered by the legislature. One of its key sponsors also emphasized the trans-partisan nature of the support for the legislation protecting fundamental, inalienable rights of American citizens.

"I'm honored to run this bill," said State Representative Bryan Zollinger, the Republican sponsor, after giving the history of the NDAA and explaining its constitutional problems during the initial hearing. "People from all parties agree that this NDAA is unconstitutional, and just about all legal experts would agree that this NDAA is an unconstitutional act." Indeed, in his brief comments urging colleagues to move the bill forward, the Republican lawmaker noted that everyone from left-wing MSNBC personality Rachel Maddow to constitutional conservative pundit Judge Andrew Napolitano have blasted the NDAA as a clear violation of the Constitution. On the Democratic side, State Representative Paulette Jordan, who is running for governor, also sponsored the bill.

When questioned by his colleagues about the implications of the nullification bill, dubbed the Restore Constitutional Governance Act, Representative Zollinger noted that it would have protected, for instance, Japanese-Americans in Idaho during World War II from the "tragedy" of being indefinitely interned in camps. That round-up of mostly U.S. citizens was carried out under the purported "authority" of an "executive order" by President Franklin D. Roosevelt that was rubber-stamped by the Supreme Court. But while similar abuses may seem unlikely today, under the indefinite detention provisions of the NDAA, they are certainly conceivable. Indeed, even late Supreme Court Justice Antonin Scalia [warned law students in 2014 that "you are kidding yourself if you think the same thing will not happen again."](#)

The legislation, which as of January 31 was still awaiting a bill number, makes it unlawful for "any person" — including soldiers, federal agents, law-enforcement officers, or anyone else — to kidnap or kill anyone in Idaho "under the law of war." That prohibition applies even if the kidnapper or killer was a government agent acting under a purported "authority" or "law" enacted at the state, local, or federal level. "Any person in violation of this act shall be prosecuted under the criminal code relating to, but not limited to, assault, battery, kidnapping, and/or murder, as applicable," the bill says. In other words, anyone who follows unconstitutional orders to murder or kidnap Americans in violation of the Constitution would be prosecuted. So it is a nullification bill, "with teeth," as supporters put it.

Of course, exceptions are provided in the legislation for applying the Uniform Code of Military Justice (UCMJ) to members of the Armed Services who may be serving in Idaho, as provided in the U.S. Constitution. But beyond that, using the military or other government agency to round up and indefinitely detain American citizens in Idaho under the guise of the "terror war," without respect for due process, would be strictly prohibited. "It is the determination of Congress that the United States is not a 'battlefield' subject to the 'laws of war,' and that neither Congress nor the President can constitutionally apply the 'laws of war' to any person in the United States, or citizen of the United States, who is not serving" in the Armed Services in time of war, the bill says.

In a short discussion on his bill that was [posted on social media](#), Representative Zollinger explained to the public why the measure is so important. The NDAA provisions in question purport to "allow the federal government, under wartime law, to come in and arrest a citizen without due process," he warned, adding that his legislation would "ineffectualize" the unconstitutional abuses. Already, "a few cities in Idaho have actually done that, as well as several other states, and I think it's time we hop onboard," Zollinger continued, noting that U.S. Representative Raul Labrador (R-Idaho) had voted against the NDAA scheme in Congress. "So we're going to go ahead and try to ineffectuate that law and



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say, 'we're a sovereign state, and we're going to give our citizens due process,' that's all this does."

Activists and leaders advocating for the measure also explained how important it was. "It doesn't matter what you stand for or against, as long as the powers of the 2012 NDAA exist, you can be declared a 'terrorist' and indefinitely detained without charge or trial," warned Jason Casella, the national and Idaho director of [People Against the NDAA \(PANDA\)](#), which has helped rally nationwide resistance to the NDAA all across the political spectrum. "The Idaho Restoring Constitutional Governance Act bans the president from using the laws of war to indefinitely detain anyone without charge or trial, and places criminal penalties on any federal or state agents who violate those rights."

Casella noted that the same bill was introduced in 2014 in Idaho. And while it passed the print hearing, which decides whether the legislation will get a bill number and move forward, it never got a public hearing by the full legislature due to statehouse leadership. But this time around, Casella told *The New American* that, being an election year, he expects lawmakers will not want to explain to their constituents why they blocked legislation designed to protect the most basic liberties of citizens. "From the Tea Party to Occupy Wall Street and anywhere and everywhere in-between, Americans want their rights respected," he said. "The NDAA gives the federal government the power to violate our most fundamental rights, and now we have a chance to right that mistake and defend basic human rights in Idaho."

At the federal level, lawmakers who take their oath of office to the Constitution seriously have long been working to make clear that kidnapping Americans without charges is unconstitutional. Last year, Senator Rand Paul (R-Ky.) [introduced](#) the [Sixth Amendment Preservation Act](#) (S.1300), which would "prohibit the indefinite detention of persons by the United States." Under the measure, no person could be imprisoned or otherwise detained by the federal government except in a manner consistent with the U.S. Constitution. "A general authorization to use military force, a declaration of war, or any similar authority, on its own, shall not be construed to authorize the imprisonment or detention without charge or trial of a person apprehended in the United States," reads the legislation, which is still sitting in the Senate Judiciary Committee.

At the state and local level, policymakers from across the political spectrum have also been working hard to nullify the NDAA's indefinite detention provisions. The efforts are in keeping with the [advice of American Founding Fathers including Thomas Jefferson and James Madison, who said nullification of unconstitutional federal usurpations was the "rightful remedy."](#) A number of states, ranging from liberal California to conservative Alaska to now-purple Virginia, have already passed laws nullifying the NDAA. In some states, [such as Michigan](#), lawmakers even voted unanimously to nullify the unconstitutional power grab by the feds. Dozens of cities and counties have approved measures to nullify NDAA as well. Whether Idaho will become the next jurisdiction to do so likely depends on the work of activists in that state.

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Alex Newman is a correspondent for The New American, covering economics, education, politics, and more. He can be reached at anewman@thenewamerican.com. Follow him on Twitter [@ALEXNEWMAN_JOU](#) or on [Facebook](#).

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