

IN THE SENATE

SENATE BILL NO. 1325

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1  
2 RELATING TO SEX CRIMES; REPEALING SECTION 18-6601, IDAHO CODE, RELATING  
3 TO ADULTERY; REPEALING SECTION 18-6603, IDAHO CODE, RELATING TO FOR-  
4 NICATION; REPEALING SECTION 18-6605, IDAHO CODE, RELATING TO CRIMES  
5 AGAINST NATURE AND PUNISHMENT; REPEALING SECTION 18-6606, IDAHO CODE,  
6 RELATING TO CRIMES AGAINST NATURE AND PENETRATION; AMENDING SECTION  
7 18-6602, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS  
8 REGARDING INCEST, AND TO DEFINE A TERM; AMENDING CHAPTER 66, TITLE 18,  
9 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-6602, IDAHO CODE, TO  
10 PROVIDE FOR THE CRIME OF SEXUAL ABUSE OF AN ANIMAL, TO DEFINE TERMS, TO  
11 PROVIDE A PENALTY, AND TO PROVIDE CERTAIN EXEMPTIONS; AMENDING CHAP-  
12 TER 66, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-6603,  
13 IDAHO CODE, TO PROVIDE FOR THE CRIME OF SEXUAL ABUSE OF HUMAN REMAINS, TO  
14 DEFINE TERMS, TO PROVIDE A PENALTY, AND TO PROVIDE CERTAIN EXEMPTIONS;  
15 AMENDING SECTION 18-6608, IDAHO CODE, TO REDESIGNATE THE SECTION, TO  
16 REVISE PROVISIONS REGARDING FORCIBLE PENETRATION BY USE OF A FOREIGN  
17 OBJECT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-6609,  
18 IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE LANGUAGE; AMENDING  
19 SECTION 16-1602, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND  
20 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-2005, IDAHO CODE,  
21 TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS;  
22 AMENDING SECTION 18-310, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO  
23 PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-909, IDAHO CODE,  
24 TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 18-911, IDAHO CODE, TO  
25 REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 18-4502, IDAHO CODE, TO  
26 REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 18-7905, IDAHO CODE, TO PRO-  
27 VIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8303, IDAHO CODE, TO  
28 REMOVE OBSOLETE LANGUAGE, TO PROVIDE A CORRECT CODE REFERENCE, AND TO  
29 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8304, IDAHO CODE, TO  
30 REMOVE OBSOLETE LANGUAGE, TO PROVIDE CORRECT CODE REFERENCES, TO REVISE  
31 PROVISIONS REGARDING APPLICABILITY, AND TO PROVIDE APPLICABILITY IN  
32 CERTAIN INSTANCES; AMENDING SECTION 18-8704, IDAHO CODE, AS ENACTED BY  
33 SECTION 1, CHAPTER 289, LAWS OF 2021, TO REDESIGNATE THE SECTION AND TO  
34 PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 19-2515, IDAHO CODE,  
35 TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 19-2520C, IDAHO CODE,  
36 TO REMOVE A CODE REFERENCE; AMENDING SECTION 19-3004A, IDAHO CODE, TO  
37 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION;  
38 AMENDING SECTION 20-509, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND  
39 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-525A, IDAHO CODE,  
40 TO REMOVE A CODE REFERENCE, TO PROVIDE A CORRECT CODE REFERENCE, AND TO  
41 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-1005, IDAHO CODE, TO  
42 REMOVE OBSOLETE LANGUAGE AND TO PROVIDE FOR CERTAIN CRIMES; AMENDING  
43 SECTION 39-1113, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO  
44 PROVIDE FOR CERTAIN CRIMES; AMENDING SECTION 72-1025, IDAHO CODE, TO

1 REMOVE A CODE REFERENCE AND TO PROVIDE A CORRECT CODE REFERENCE; AND  
2 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

3 Be It Enacted by the Legislature of the State of Idaho:

4 SECTION 1. That Section 18-6601, Idaho Code, be, and the same is hereby  
5 repealed.

6 SECTION 2. That Section 18-6603, Idaho Code, be, and the same is hereby  
7 repealed.

8 SECTION 3. That Section 18-6605, Idaho Code, be, and the same is hereby  
9 repealed.

10 SECTION 4. That Section 18-6606, Idaho Code, be, and the same is hereby  
11 repealed.

12 SECTION 5. That Section 18-6602, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 18-6602<sup>1</sup>. INCEST. (1) ~~Persons being~~ Any person who willfully marries  
15 or engages in sexual intercourse with another person known to be within the  
16 degrees of consanguinity within which marriages are declared by law to be in-  
17 cestuous and void, ~~who intermarry with each other, or who commit fornication~~  
18 or adultery with each other, under section 32-205, Idaho Code, is guilty of a  
19 felony.

20 (2) For the purposes of this section, "sexual intercourse" means gen-  
21 ital-genital, oral-genital, anal-genital, oral-anal, manual-anal, or man-  
22 ual-genital penetration between persons of the same or opposite sex.

23 (3) Any violations of this section are punishable by imprisonment in  
24 the state prison for a term not to exceed fifteen (15) years; however, if  
25 a victim is under the age of eighteen (18) years at the time of violation  
26 of this section, such violation is punishable by imprisonment in the state  
27 prison for a term not to exceed life.

28 SECTION 6. That Chapter 66, Title 18, Idaho Code, be, and the same is  
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
30 ignated as Section 18-6602, Idaho Code, and to read as follows:

31 18-6602. SEXUAL ABUSE OF AN ANIMAL. (1) A person is guilty of a felony  
32 if that person:

33 (a) Engages in sexual contact with an animal;  
34 (b) Advertises, solicits, offers, or accepts the offer of an animal or  
35 possesses, purchases, or otherwise obtains an animal with the intent  
36 that the animal be subject to sexual contact; or  
37 (c) Causes, aids, or abets another person to engage in sexual contact  
38 with an animal.

39 (2) As used in this section:

40 (a) "Animal" means any living creature of the animal kingdom, other  
41 than a human being, whether dead or alive at the time of the violation of  
42 this section; and

1 (b) "Sexual contact" means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or  
 2 financial gain without a bona fide veterinary or animal husbandry purpose and involving:  
 3

4 (i) Contact between the sex organs or anus of an animal and the mouth of the person or contact between the sex organs or anus of the  
 5 person and the mouth of the animal;  
 6

7 (ii) The insertion of any part of the animal's body into the vaginal or anal opening of the person; or  
 8

9 (iii) The insertion of any part of the body of a person or any object into the vaginal or anal opening of an animal.  
 10

11 (3) Any person who violates this section may be punished by imprisonment in the state prison for a term not to exceed five (5) years. Additionally, the court may order a person who violates this section to:  
 12

13 (a) Relinquish custody of some or all animals under the person's control at the time of the offense. If the person convicted of violating this section is not the owner of the animal that was the subject of the violation, then the animal shall be returned to the owner of the animal. An animal returned to an owner under this section shall not be spayed or neutered prior to being returned; and  
 14

15 (b) Reimburse the agency or shelter caring for the animal for reasonable costs incurred for the care and treatment of the animal from the date of impoundment until the disposition of the criminal proceeding.  
 16

17 (4) Nothing in this section shall be construed to criminalize:  
 18

19 (a) Generally accepted veterinary practices in compliance with chapter 21, title 54, Idaho Code;  
 20

21 (b) Generally accepted agricultural, farming, ranching, and animal husbandry practices, including grooming, raising, breeding or artificially inseminating an animal for reproductive purposes, assisting with the birthing process of animals, or any other procedure that provides care for an animal;  
 22

23 (c) Generally accepted commercial, traditional, cultural, historical, or tribal practices, including judging of breed conformation, rodeos, horse racing, fairs, and stock sales and auctions; or  
 24

25 (d) Generally accepted hunting, fishing, and trapping practices in compliance with title 36, Idaho Code.  
 26

27 SECTION 7. That Chapter 66, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-6603, Idaho Code, and to read as follows:  
 28

29 18-6603. SEXUAL ABUSE OF HUMAN REMAINS. (1) A person is guilty of a felony if that person engages in sexual contact with human remains.  
 30

31 (2) As used in this section:  
 32

33 (a) "Human remains" means a deceased human body or any portion of a deceased human body in any condition or state of decomposition; and  
 34

35 (b) "Sexual contact" means any act committed between a person and human remains for the purpose of sexual arousal, sexual gratification, abuse, or financial gain involving genital-genital, oral-genital, anal-genital, oral-anal, manual-genital, or manual-anal contact between a per-  
 36

1 son and human remains or penetration of the genitals or anus with an ob-  
2 ject, instrument, or device.

3 (3) Any person who violates this section may be punished by imprison-  
4 ment in the state prison for a term not to exceed five (5) years.

5 (4) Nothing in this section shall be construed to criminalize:

6 (a) Generally accepted dental, nursing, or medical practices in com-  
7 pliance with chapter 9, chapter 18, or chapter 14, title 54, Idaho Code;

8 (b) Generally accepted organ donation or anatomical gift practices in  
9 compliance with chapter 34, title 39, Idaho Code;

10 (c) Generally accepted mortuary or funerary practices, including but  
11 not limited to embalming in compliance with chapter 11, title 54, Idaho  
12 Code; or

13 (d) Generally accepted investigative practices by coroners, medical  
14 examiners, pathologists, or the like.

15 SECTION 8. That Section 18-6608, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 18-66084. FORCIBLE PENETRATION BY USE OF FOREIGN OBJECT. (1) Every A  
18 person who violates this section when that person willfully causes the pen-  
19 etration, however slight, of the genital or anal opening of another any per-  
20 son, by any object, instrument, or device:

21 (1a) Against the victim's will by:

22 (ai) Use of force or violence; or

23 (bii) Duress; or

24 (eiii) Threats of immediate and great bodily harm, accompanied by  
25 apparent power of execution; or

26 (2b) Where the victim is incapable, through any unsoundness of mind,  
27 whether temporary or permanent, of giving legal consent; or

28 (3c) Where the victim is prevented from resistance by any intoxicating,  
29 narcotic, or anesthetic substance; or

30 (4d) Where the victim is at the time unconscious of the nature of the act  
31 because the victim:

32 (ai) Was unconscious or asleep; or

33 (bii) Was not aware, knowing, perceiving, or cognizant that the  
34 act occurred.

35 (2) A person who violates the provisions of this section shall be guilty  
36 of a felony and shall be punished by imprisonment in the state prison for not  
37 more than life.

38 (3) The provisions of this section shall not apply to bona fide medical,  
39 health care, or hygiene procedures.

40 SECTION 9. That Section 18-6609, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 18-66095. CRIME OF VIDEO VOYEURISM. (1) As used in this section:

43 (a) "Broadcast" means the electronic transmittal of a visual image with  
44 the intent that it be viewed by a person or persons.

45 (b) "Disseminate" means to make available by any means to any person.

46 (c) "Imaging device" means any instrument capable of recording, stor-  
47 ing, viewing or transmitting visual images.

1 (d) "Intimate areas" means the nude genitals, nude pubic area, nude  
2 buttocks or nude female nipple.

3 (e) "Person" means any natural person, corporation, partnership, firm,  
4 association, joint venture or any other recognized legal entity or any  
5 agent or servant thereof.

6 (f) "Place where a person has a reasonable expectation of privacy"  
7 means:

8 (i) A place where a reasonable person would believe that he could  
9 undress, be undressed or engage in sexual activity in privacy,  
10 without concern that he is being viewed, photographed, filmed or  
11 otherwise recorded by an imaging device; or

12 (ii) A place where a person might reasonably expect to be safe from  
13 casual or hostile surveillance by an imaging device; or

14 (iii) Any public place where a person, by taking reasonable  
15 steps to conceal intimate areas, should be free from the viewing,  
16 recording, storing or transmitting of images obtained by imaging  
17 devices designed to overcome the barriers created by a person's  
18 covering of intimate areas.

19 (g) "Publish" means to:

20 (i) Disseminate with the intent that such image or images be made  
21 available by any means to any person; or

22 (ii) Disseminate with the intent that such images be sold by an-  
23 other person; or

24 (iii) Post, present, display, exhibit, circulate, advertise or  
25 allow access by any means so as to make an image or images available  
26 to the public; or

27 (iv) Disseminate with the intent that an image or images be  
28 posted, presented, displayed, exhibited, circulated, advertised  
29 or made accessible by any means and to make such image or images  
30 available to the public.

31 (h) "Sell" means to disseminate to another person, or to publish, in ex-  
32 change for something of value.

33 (i) "Sexual act" includes, but is not limited to, masturbation; gen-  
34 ital, anal or oral sex; sexual penetration with an object; or the  
35 transfer or transmission of semen upon any part of the depicted person's  
36 body.

37 (2) A person is guilty of video voyeurism when, with the intent of  
38 arousing, appealing to or gratifying the lust or passions or sexual desires  
39 of such person or another person, or for his own or another person's lasciv-  
40 ious entertainment or satisfaction of prurient interest, or for the purpose  
41 of sexually degrading or abusing any other person, he uses, installs or per-  
42 mits the use or installation of an imaging device at a place where a person  
43 would have a reasonable expectation of privacy, without the knowledge or  
44 consent of the person using such place.

45 (3) A person is guilty of video voyeurism when:

46 (a) With the intent to annoy, terrify, threaten, intimidate, harass,  
47 offend, humiliate or degrade, he intentionally disseminates, publishes  
48 or sells or conspires to disseminate, publish or sell any image of an-  
49 other person who is identifiable from the image itself or information

1 displayed in connection with the image and whose intimate areas are ex-  
2 posed, in whole or in part, or who is engaged in a sexual act;

3 (b) He knew or reasonably should have known that the person depicted in  
4 the image understood that the image should remain private; and

5 (c) He knew or reasonably should have known that the person depicted in  
6 the image did not consent to the dissemination, publication or sale of  
7 the image.

8 (4) A violation of this section is a felony.

9 (5) This section does not apply to:

10 (a) An interactive computer service, as defined in 47 U.S.C. 230(f)(2),  
11 an information service, as defined in 47 U.S.C. 153 or a telecommuni-  
12 cation service, as defined in section 61-121(2) or 62-603(13), Idaho  
13 Code, for content provided by another person, unless the provider in-  
14 tententionally aids or abets video voyeurism;

15 (b) Images involving voluntary exposure in public or commercial set-  
16 tings; or

17 (c) Disclosures made in the public interest including, but not limited  
18 to, the reporting of unlawful conduct or the lawful and common practices  
19 of law enforcement, criminal reporting, legal proceedings or medical  
20 treatment.

21 SECTION 10. That Section 16-1602, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 16-1602. DEFINITIONS. For purposes of this chapter:

24 (1) "Abused" means any case in which a child has been the victim of:

25 (a) Conduct or omission resulting in skin bruising, bleeding, mal-  
26 nutrition, burns, fracture of any bone, head injury, soft tissue  
27 swelling, failure to thrive or death, and such condition or death is not  
28 justifiably explained, or where the history given concerning such con-  
29 dition or death is at variance with the degree or type of such condition  
30 or death, or the circumstances indicate that such condition or death may  
31 not be the product of an accidental occurrence; or

32 (b) Sexual conduct, including rape, molestation, incest, prostitu-  
33 tion, obscene or pornographic photographing, filming or depiction for  
34 commercial purposes, human trafficking as defined in section 18-8602,  
35 Idaho Code, or other similar forms of sexual exploitation harming or  
36 threatening the child's health or welfare or mental injury to the child.

37 (2) "Abandoned" means the failure of the parent to maintain a normal  
38 parental relationship with his child including, but not limited to, reason-  
39 able support or regular personal contact. Failure to maintain this rela-  
40 tionship without just cause for a period of one (1) year shall constitute  
41 prima facie evidence of abandonment.

42 (3) "Adaptive equipment" means any piece of equipment or any item that  
43 is used to increase, maintain or improve the parenting capabilities of a par-  
44 ent with a disability.

45 (4) "Adjudicatory hearing" means a hearing to determine:

46 (a) Whether the child comes under the jurisdiction of the court pur-  
47 suant to the provisions of this chapter;

48 (b) Whether continuation of the child in the home would be contrary to  
49 the child's welfare and whether the best interest of the child requires

1 protective supervision or vesting legal custody of the child in an au-  
2 thorized agency.

3 (5) "Age of developmentally appropriate" means:

4 (a) Activities that are generally accepted as suitable for children of  
5 the same chronological age or level of maturity or that are determined  
6 to be developmentally appropriate for a child, based on the development  
7 of cognitive, emotional, physical and behavioral capacities that are  
8 typical for an age or age group; and

9 (b) In the case of a specific child, activities or items that are suit-  
10 able for the child based on the developmental stages attained by the  
11 child with respect to the cognitive, emotional, physical and behavioral  
12 capacities of the child.

13 (6) "Aggravated circumstances" includes, but is not limited to:

14 (a) Circumstances in which the parent has engaged in any of the follow-  
15 ing:

16 (i) Abandonment, chronic abuse or chronic neglect of the child.  
17 Chronic neglect or chronic abuse of a child shall consist of abuse  
18 or neglect that is so extreme or repetitious as to indicate that  
19 return of the child to the home would result in unacceptable risk  
20 to the health and welfare of the child.

21 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
22 the purposes of this section, includes any conduct described in  
23 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
24 18-6608~~4~~, or 18-8602, Idaho Code.

25 (iii) Torture of a child. Any conduct listed in section  
26 18-8303(1), Idaho Code; battery or an injury to a child that re-  
27 sults in serious or great bodily injury to a child; voluntary  
28 manslaughter of a child, or aiding or abetting such voluntary  
29 manslaughter, soliciting such voluntary manslaughter or attempt-  
30 ing or conspiring to commit such voluntary manslaughter;

31 (b) The parent has committed murder, aided or abetted a murder, so-  
32 licited a murder or attempted or conspired to commit murder; or

33 (c) The parental rights of the parent to another child have been termi-  
34 nated involuntarily.

35 (7) "Authorized agency" means the department, a local agency, a person,  
36 an organization, corporation, benevolent society or association licensed  
37 or approved by the department or the court to receive children for control,  
38 care, maintenance or placement.

39 (8) "Caregiver" means a foster parent with whom a child in foster care  
40 has been placed or a designated official for a child care institution in  
41 which a child in foster care has been placed.

42 (9) "Case plan hearing" means a hearing to approve, modify or reject the  
43 case plan as provided in section 16-1621, Idaho Code.

44 (10) "Child" means an individual who is under the age of eighteen (18)  
45 years.

46 (11) "Child advocacy center" or "CAC" means an organization that ad-  
47 heres to national best practice standards established by the national  
48 membership and accrediting body for children's advocacy centers and that  
49 promotes a comprehensive and coordinated multidisciplinary team response to  
50 allegations of child abuse by maintaining a child-friendly facility at which

1 appropriate services are provided. These services may include forensic in-  
2 terviews, forensic medical examinations, mental health services and other  
3 related victim services.

4 (12) "Circumstances of the child" includes, but is not limited to, the  
5 joint legal custody or joint physical custody of the child.

6 (13) "Commit" means to transfer legal and physical custody.

7 (14) "Concurrent planning" means a planning model that prepares for and  
8 implements different outcomes at the same time.

9 (15) "Court" means district court or magistrate division thereof or, if  
10 the context requires, a magistrate or judge thereof.

11 (16) "Custodian" means a person, other than a parent or legal guardian,  
12 to whom legal or joint legal custody of the child has been given by court or-  
13 der.

14 (17) "Department" means the department of health and welfare and its au-  
15 thorized representatives.

16 (18) "Disability" means, with respect to an individual, any mental or  
17 physical impairment that substantially limits one (1) or more major life  
18 activities of the individual including, but not limited to, self-care, man-  
19 ual tasks, walking, seeing, hearing, speaking, learning or working, or a  
20 record of such an impairment, or being regarded as having such an impairment.  
21 Disability shall not include transvestism, transsexualism, pedophilia,  
22 exhibitionism, voyeurism, other sexual behavior disorders, or substance use  
23 disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-  
24 ence or orientation is not considered an impairment or disability. Whether  
25 an impairment substantially limits a major life activity shall be determined  
26 without consideration of the effect of corrective or mitigating measures  
27 used to reduce the effects of the impairment.

28 (19) "Family or household member" shall have the same meaning as in sec-  
29 tion 39-6303(6), Idaho Code.

30 (20) "Foster care" means twenty-four (24) hour substitute parental care  
31 for children placed away from their parents or guardians by persons who may  
32 or may not be related to the children and for whom the state agency has place-  
33 ment and care responsibility.

34 (21) "Foster parent" means a person or persons licensed to provide fos-  
35 ter care.

36 (22) "Grant administrator" means the supreme court or any organization  
37 or agency as may be designated by the supreme court in accordance with such  
38 procedures as may be adopted by the supreme court. The grant administrator  
39 shall administer funds from the guardian ad litem account in accordance with  
40 the provisions of this chapter.

41 (23) "Guardian ad litem" means a person appointed by the court pursuant  
42 to a guardian ad litem volunteer program to act as special advocate for a  
43 child under this chapter.

44 (24) "Guardian ad litem coordinator" means a person or entity receiving  
45 moneys from the grant administrator for the purpose of carrying out any of  
46 the duties set forth in section 16-1632, Idaho Code.

47 (25) "Guardian ad litem program" means the program to recruit, train and  
48 coordinate volunteer persons to serve as guardians ad litem for abused, ne-  
49 glected or abandoned children.

1 (26) "Homeless," as used in this chapter, shall mean that the child is  
2 without adequate shelter or other living facilities, and the lack of such  
3 shelter or other living facilities poses a threat to the health, safety or  
4 well-being of the child.

5 (27) "Idaho network of children's advocacy centers" means an organiza-  
6 tion that provides education and technical assistance to child advocacy cen-  
7 ters and to interagency multidisciplinary teams developed pursuant to sec-  
8 tion 16-1617, Idaho Code.

9 (28) "Law enforcement agency" means a city police department, the pros-  
10 ecuting attorney of any county, state law enforcement officers, or the of-  
11 fice of a sheriff of any county.

12 (29) "Legal custody" means a relationship created by court order, which  
13 vests in a custodian the following rights and responsibilities:

14 (a) To have physical custody and control of the child, and to determine  
15 where and with whom the child shall live.

16 (b) To supply the child with food, clothing, shelter and incidental ne-  
17 cessities.

18 (c) To provide the child with care, education and discipline.

19 (d) To authorize ordinary medical, dental, psychiatric, psychologi-  
20 cal, or other remedial care and treatment for the child, including care  
21 and treatment in a facility with a program of services for children, and  
22 to authorize surgery if the surgery is deemed by two (2) physicians li-  
23 censed to practice in this state to be necessary for the child.

24 (e) Where the parents share legal custody, the custodian may be vested  
25 with the custody previously held by either or both parents.

26 (30) "Mental injury" means a substantial impairment in the intellectual  
27 or psychological ability of a child to function within a normal range of per-  
28 formance and/or behavior, for short or long terms.

29 (31) "Neglected" means a child:

30 (a) Who is without proper parental care and control, or subsistence,  
31 medical or other care or control necessary for his well-being because of  
32 the conduct or omission of his parents, guardian or other custodian or  
33 their neglect or refusal to provide them; however, no child whose parent  
34 or guardian chooses for such child treatment by prayers through spiri-  
35 tual means alone in lieu of medical treatment shall be deemed for that  
36 reason alone to be neglected or lack parental care necessary for his  
37 health and well-being, but this subsection shall not prevent the court  
38 from acting pursuant to section 16-1627, Idaho Code; or

39 (b) Whose parent, guardian or other custodian is unable to discharge  
40 the responsibilities to and for the child and, as a result of such in-  
41 ability, the child lacks the parental care necessary for his health,  
42 safety or well-being; or

43 (c) Who has been placed for care or adoption in violation of law; or

44 (d) Who is without proper education because of the failure to comply  
45 with section 33-202, Idaho Code.

46 (32) "Permanency hearing" means a hearing to review, approve, reject or  
47 modify the permanency plan of the department and to review reasonable ef-  
48 forts in accomplishing the permanency plan.

49 (33) "Permanency plan" means a plan for a continuous residence and main-  
50 tenance of nurturing relationships during the child's minority.

1 (34) "Protective order" means an order issued by the court in a child  
2 protection case, prior to the adjudicatory hearing, to enable the child to  
3 remain in the home pursuant to section 16-1615(8), Idaho Code, or follow-  
4 ing an adjudicatory hearing to preserve the unity of the family and to ensure  
5 the best interests of the child pursuant to section 16-1619(10), Idaho Code.  
6 Such an order shall be in the same form and have the same effect as a domes-  
7 tic violence protection order issued pursuant to chapter 63, title 39, Idaho  
8 Code. A protective order shall be for a period not to exceed three (3) months  
9 unless otherwise stated in the order.

10 (35) "Protective supervision" is a legal status created by court order  
11 in a child protective case whereby the child is in the legal custody of his or  
12 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-  
13 sion by the department.

14 (36) "Psychotropic medication" means a drug prescribed to affect psy-  
15 chological functioning, perception, behavior or mood. Psychotropic medi-  
16 cations include, but are not limited to, antidepressants, mood stabilizers,  
17 antipsychotics, antianxiety medications, sedatives and stimulants.

18 (37) "Qualified individual" means a trained professional or licensed  
19 clinician who is not connected to or affiliated with any placement setting  
20 in which children are placed by the department and who is not an employee of  
21 child and family services, unless a waiver has been approved by the autho-  
22 rized agency.

23 (38) "Qualified residential treatment program" means a program that has  
24 a trauma-informed treatment model designed to address the needs of children  
25 with serious emotional or behavioral disorders or disturbances, is able to  
26 implement the treatment identified for the child by the assessment of the  
27 child required under section 16-1619A(2), Idaho Code, and is licensed and  
28 accredited in accordance with state and federal law.

29 (39) "Reasonable and prudent parent standard" means the standard of  
30 care characterized by careful and sensible parental decisions that main-  
31 tain the health, safety and best interests of a child while simultaneously  
32 encouraging the emotional and developmental growth of the child that a care-  
33 giver shall use when determining whether to allow a child in foster care  
34 under the responsibility of the state to participate in extracurricular,  
35 enrichment, cultural or social activities.

36 (40) "Relative" means a child's grandparent, great grandparent, aunt,  
37 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
38 cousin, sibling and half-sibling.

39 (41) "Residual parental rights and responsibilities" means those  
40 rights and responsibilities remaining with the parents after the transfer of  
41 legal custody including, but not necessarily limited to, the right of visi-  
42 tation, the right to consent to adoption, the right to determine religious  
43 affiliation, the right to family counseling when beneficial, and the respon-  
44 sibility for support.

45 (42) "Shelter care" means places designated by the department for tem-  
46 porary care of children pending court disposition or placement.

47 (43) "Supportive services," as used in this chapter, shall mean ser-  
48 vices that assist parents with a disability to compensate for those aspects  
49 of their disability that affect their ability to care for their child and  
50 that will enable them to discharge their parental responsibilities. The

1 term includes specialized or adapted training, evaluations or assistance  
2 with effectively using adaptive equipment and accommodations that allow  
3 parents with a disability to benefit from other services including, but not  
4 limited to, Braille texts or sign language interpreters.

5 SECTION 11. That Section 16-2005, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The  
8 court may grant an order terminating the relationship where it finds that  
9 termination of parental rights is in the best interests of the child and that  
10 one (1) or more of the following conditions exist:

- 11 (a) The parent has abandoned the child.  
12 (b) The parent has neglected or abused the child.  
13 (c) The presumptive parent is not the biological parent of the child.  
14 (d) The parent is unable to discharge parental responsibilities and  
15 such inability will continue for a prolonged indeterminate period and  
16 will be injurious to the health, morals or well-being of the child.  
17 (e) The parent has been incarcerated and is likely to remain incarcer-  
18 ated for a substantial period of time during the child's minority.

19 (2) The court may grant an order terminating the relationship and may  
20 rebuttably presume that such termination of parental rights is in the best  
21 interests of the child where:

- 22 (a) The parent caused the child to be conceived as a result of rape,  
23 incest, lewd conduct with a minor child under the age of sixteen (16)  
24 years, or sexual abuse of a child under the age of sixteen (16) years,  
25 as defined in sections 18-6101, 18-1508, 18-1506, and 18-6602~~1~~1, Idaho  
26 Code;

27 (b) The following circumstances are present:

- 28 (i) Abandonment, chronic abuse or chronic neglect of the child.  
29 Chronic neglect or chronic abuse of a child shall consist of abuse  
30 or neglect that is so extreme or repetitious as to indicate con-  
31 tinuing the relationship would result in unacceptable risk to the  
32 health and welfare of the child;

33 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
34 the purposes of this section, includes any conduct described in  
35 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
36 or 18-6608~~4~~4, Idaho Code;

37 (iii) Torture of a child; any conduct described in the code sec-  
38 tions listed in section 18-8303(1), Idaho Code; battery or an  
39 injury to a child that results in serious or great bodily in-  
40 jury to a child; voluntary manslaughter of a child, or aiding or  
41 abetting such voluntary manslaughter, soliciting such voluntary  
42 manslaughter or attempting or conspiring to commit such voluntary  
43 manslaughter;

44 (iv) The parent has committed murder, aided or abetted a murder,  
45 solicited a murder or attempted or conspired to commit murder; or

46 (c) The court determines the child to be an abandoned infant, except in  
47 a parental termination action brought by one (1) parent against another  
48 parent.

1 (3) The court may grant an order terminating the relationship if termi-  
2 nation is found to be in the best interest of the parent and child.

3 (4) The court may grant an order terminating the relationship where a  
4 consent to termination in the manner and form prescribed by this chapter has  
5 been filed by the parent(s) of the child in conjunction with a petition for  
6 adoption initiated by the person or persons proposing to adopt the child,  
7 or where the consent to termination has been filed by a licensed adoption  
8 agency, no subsequent hearing on the merits of the petition shall be held.  
9 Consents required by this chapter must be witnessed by a district judge or  
10 magistrate of a district court, or equivalent judicial officer of the state,  
11 where a person consenting resides or is present, whether within or without  
12 the county, and shall be substantially in the following form:

13 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN  
14 AND FOR THE COUNTY OF....

15 In the Matter of the termination )  
16 of the parental rights of )  
17 ..... )  
18 ..... )

19 I (we), the undersigned, being the.... of...., do hereby give my (our)  
20 full and free consent to the complete and absolute termination of my (our)  
21 parental right(s), to the said...., who was born....,...., unto...., hereby  
22 relinquishing completely and forever, all legal rights, privileges, du-  
23 ties and obligations, including all rights of inheritance to and from the  
24 said...., and I (we) do hereby expressly waive my (our) right(s) to hear-  
25 ing on the petition to terminate my (our) parental relationship with the  
26 said...., and respectfully request the petition be granted.

DATED:....., 20..  
.....

28  
29 STATE OF IDAHO )  
30 ) ss.  
31 COUNTY OF.... )

32 On this.... day of...., 20.., before me, the undersigned.....  
33 (Judge or Magistrate) of the District Court of the.... Judicial District of  
34 the state of Idaho, in and for the county of...., personally appeared....,  
35 known to me (or proved to me on the oath of....) to be the person(s) whose  
36 name(s) is (are) subscribed to the within instrument, and acknowledged to me  
37 that he (she, they) executed the same.

38 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
39 seal the day and year in this certificate first above written.  
40 ..... (District Judge or Magistrate)

41 (5) The court shall accept a consent or a surrender and release executed  
42 in another state if:

43 (1a) It is witnessed by a magistrate or district judge of the state  
44 where signed; or

45 (2b) The court receives an affidavit or a certificate from a court of  
46 comparable jurisdiction stating that the consent or the surrender and  
47 release was executed in accordance with the laws of the state in which it

1 was executed, or the court is satisfied by other showing that the con-  
 2 sent or surrender and release was executed in accordance with the laws  
 3 of the state in which it was executed; ~~or.~~

4 (36) The court shall accept a termination or relinquishment from a sis-  
 5 ter state that has been ordered by a court of competent jurisdiction under  
 6 like proceedings; or in any other manner authorized by the laws of a sister  
 7 state. In a state where the father has failed to file notice of claim to pa-  
 8 ternity and willingness to assume responsibility as provided for pursuant to  
 9 the laws of such state, and where such failure constitutes an abandonment of  
 10 such child and constitutes a termination or relinquishment of the rights of  
 11 the putative father, the court shall accept such failure as a termination in  
 12 this state without further hearing on the merits, if the court is satisfied  
 13 that such failure constitutes a termination or relinquishment of parental  
 14 rights pursuant to the laws of that state.

15 (57) Unless a consent to termination signed by the parent(s) of the  
 16 child has been filed by an adoption agency licensed in the state of Idaho, or  
 17 unless the consent to termination was filed in conjunction with a petition  
 18 for adoption of the child, the court shall hold a hearing.

19 (68) If the parent has a disability, as defined in this chapter, the  
 20 parent shall have the right to provide evidence to the court regarding the  
 21 manner in which the use of adaptive equipment or supportive services will  
 22 enable the parent to carry out the responsibilities of parenting the child.  
 23 Nothing in this section shall be construed to create any new or additional  
 24 obligation on state or local governments to purchase or provide adaptive  
 25 equipment or supportive services for parents with disabilities.

26 SECTION 12. That Section 18-310, Idaho Code, be, and the same is hereby  
 27 amended to read as follows:

28 18-310. IMPRISONMENT -- EFFECT ON CIVIL RIGHTS AND OFFICES. (1) A  
 29 sentence of custody to the Idaho state board of correction suspends all the  
 30 civil rights of the person so sentenced, including the right to refuse treat-  
 31 ment authorized by the sentencing court, and forfeits all public offices and  
 32 all private trusts, authority or power during such imprisonment: provided  
 33 that any such person may bring an action for damages or other relief in the  
 34 courts of this state or have an action brought against such person; and pro-  
 35 vided further that any such person may lawfully exercise all civil rights  
 36 that are not political during any period of parole or probation, except the  
 37 right to ship, transport, possess or receive a firearm, and the right to  
 38 refuse treatment authorized by the sentencing court.

39 (2) Upon final discharge, a person convicted of any Idaho felony shall  
 40 be restored the full rights of citizenship, except that for persons con-  
 41 victed of treason or those offenses enumerated in paragraphs (a) through  
 42 (~~ii~~hh) of this subsection the right to ship, transport, possess or receive a  
 43 firearm shall not be restored. As used in this subsection, "final discharge"  
 44 means satisfactory completion of imprisonment, probation and parole as the  
 45 case may be.

46 (a) Aggravated assault (18-905, 18-915, Idaho Code);

47 (b) Aggravated battery (18-907, 18-915, Idaho Code);

48 (c) Assault with intent to commit a serious felony (18-909, 18-915,  
 49 Idaho Code);

1 (d) Battery with intent to commit a serious felony (18-911, 18-915,  
 2 Idaho Code);  
 3 (e) Burglary (18-1401, Idaho Code);  
 4 (f) ~~Crime against nature (18-6605, Idaho Code);~~  
 5 ~~(g) Domestic battery, felony (18-918, Idaho Code);~~  
 6 (~~h~~g) Enticing of children, felony (18-1509, Idaho Code);  
 7 (~~i~~h) Forcible sexual penetration by use of a foreign object (18-6608~~4~~,  
 8 Idaho Code);  
 9 (~~j~~i) Indecent exposure, felony (18-4116, Idaho Code);  
 10 (~~k~~j) Injury to child, felony (18-1501, Idaho Code);  
 11 (~~l~~k) Intimidating a witness, felony (18-2604, Idaho Code);  
 12 (~~m~~l) Lewd conduct with a minor or child under sixteen (18-1508, Idaho  
 13 Code);  
 14 (~~n~~m) Sexual abuse of a child under sixteen (18-1506, Idaho Code);  
 15 (~~o~~n) Sexual exploitation of a child (18-1507, Idaho Code);  
 16 (~~p~~o) Felonious rescuing prisoners (18-2501, Idaho Code);  
 17 (~~q~~p) Escape by one charged with, convicted of or on probation for a  
 18 felony (18-2505, Idaho Code);  
 19 (~~r~~q) Unlawful possession of a firearm (18-3316, Idaho Code);  
 20 (~~s~~r) Degrees of murder (18-4003, Idaho Code);  
 21 (~~t~~s) Voluntary manslaughter (18-4006(1), Idaho Code);  
 22 (~~u~~t) Assault with intent to murder (18-4015, Idaho Code);  
 23 (~~v~~u) Administering poison with intent to kill (18-4014, Idaho Code);  
 24 (~~w~~v) Kidnapping (18-4501, Idaho Code);  
 25 (~~x~~w) Mayhem (18-5001, Idaho Code);  
 26 (~~y~~x) Rape (18-6101, Idaho Code);  
 27 (~~z~~y) Robbery (18-6501, Idaho Code);  
 28 (~~aa~~z) Ritualized abuse of a child (18-1506A, Idaho Code);  
 29 (~~baa~~aa) Cannibalism (18-5003, Idaho Code);  
 30 (~~ebb~~ba) Felonious manufacture, delivery or possession with the intent  
 31 to manufacture or deliver, or possession of a controlled or counterfeit  
 32 substance (37-2732, Idaho Code);  
 33 (~~dcc~~eb) Trafficking (37-2732B, Idaho Code);  
 34 (~~edd~~bb) Threats against state officials of the executive, legislative or  
 35 judicial branch, felony (18-1353A, Idaho Code);  
 36 (~~fee~~cc) Unlawful discharge of a firearm at a dwelling house, occupied  
 37 building, vehicle or mobile home (18-3317, Idaho Code);  
 38 (~~fff~~ed) Unlawful possession of destructive devices (18-3319, Idaho  
 39 Code);  
 40 (~~hgg~~ff) Unlawful use of destructive device or bomb (18-3320, Idaho  
 41 Code);  
 42 (~~ihh~~gg) Attempt (18-306, Idaho Code), conspiracy (18-1701, Idaho Code),  
 43 or solicitation (18-2001, Idaho Code), to commit any of the crimes de-  
 44 scribed in paragraphs (a) through (~~hgg~~hh) of this subsection.  
 45 (~~jjj~~ii) The provisions of this subsection shall apply only to those per-  
 46 sons convicted of the enumerated felonies in paragraphs (a) through  
 47 (~~ihh~~ii) of this subsection on or after July 1, 1991, except that persons  
 48 convicted of the felonies enumerated in paragraphs (~~sr~~jj) and (~~ts~~kk) of  
 49 this subsection, for any degree of murder or voluntary manslaughter,  
 50 shall not be restored the right to ship, transport, possess or receive

1 a firearm, regardless of the date of their conviction if the conviction  
2 was the result of an offense committed by use of a firearm.

3 (3) A person not restored to the civil right to ship, transport, pos-  
4 sess or receive a firearm may make application to the commission of pardons  
5 and parole to restore the civil right to ship, transport, possess or receive  
6 a firearm. The commission shall not accept any such application until five  
7 (5) years after the date of final discharge. The commission shall conduct  
8 the proceeding upon such application pursuant to rules adopted in accordance  
9 with the law. The commission shall not restore the right to ship, transport,  
10 possess or receive a firearm to any person convicted of murder in the first  
11 degree (18-4003, Idaho Code), murder in the second degree (18-4003, Idaho  
12 Code), or any felony enumerated in paragraphs (a) through (~~ii~~hh) of subsec-  
13 tion (2) of this section, upon which the sentence was enhanced for the use of  
14 a firearm during the commission of said felony.

15 (4) Persons convicted of felonies in other states or jurisdictions  
16 shall be allowed to register and vote in Idaho upon final discharge which  
17 means satisfactory completion of imprisonment, probation and parole as the  
18 case may be. These individuals shall not have the right restored to ship,  
19 transport, possess or receive a firearm in the same manner as an Idaho felon  
20 as provided in subsection (2) of this section.

21 SECTION 13. That Section 18-909, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 18-909. ASSAULT WITH INTENT TO COMMIT A SERIOUS FELONY DEFINED. An as-  
24 sult upon another with intent to commit murder, rape, ~~the infamous crime~~  
25 ~~against nature~~, mayhem, robbery, or lewd and lascivious conduct with a minor  
26 child is an assault with the intent to commit a serious felony.

27 SECTION 14. That Section 18-911, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 18-911. BATTERY WITH THE INTENT TO COMMIT A SERIOUS FELONY DE-  
30 FINED. Any battery committed with the intent to commit murder, rape, ~~the in-~~  
31 ~~famous crime against nature~~, mayhem, robbery or lewd and lascivious conduct  
32 with a minor child is a battery with the intent to commit a serious felony.

33 SECTION 15. That Section 18-4502, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 18-4502. FIRST DEGREE KIDNAPPING -- RANSOM. Any kidnapping committed  
36 for the purpose of obtaining money, property or any other thing of value for  
37 the return or disposition of such person kidnapped, or committed for the pur-  
38 pose of raping, ~~or committing the infamous crime against nature~~, or commit-  
39 ting serious bodily injury upon the person kidnapped, or committing any lewd  
40 and lascivious act upon any child under the age of sixteen (16) years with the  
41 intent of arousing, appealing to, or gratifying the lust or passions or sex-  
42 ual desires of any person, shall be kidnapping in the first degree.

43 SECTION 16. That Section 18-7905, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

1 18-7905. STALKING IN THE FIRST DEGREE. (1) A person commits the crime  
2 of stalking in the first degree if the person violates section 18-7906, Idaho  
3 Code, and:

4 (a) The actions constituting the offense are in violation of a tempo-  
5 rary restraining order, protection order, no contact order or injunc-  
6 tion, or any combination thereof; or

7 (b) The actions constituting the offense are in violation of a condi-  
8 tion of probation or parole; or

9 (c) The victim is under the age of sixteen (16) years; or

10 (d) At any time during the course of conduct constituting the offense,  
11 the defendant possessed a deadly weapon or instrument; or

12 (e) The defendant has been previously convicted of a crime under this  
13 section or section 18-7906, Idaho Code, or a substantially conforming  
14 foreign criminal violation within seven (7) years, notwithstanding the  
15 form of the judgment or withheld judgment; or

16 (f) The defendant has been previously convicted of a crime, or an at-  
17 tempt, solicitation or conspiracy to commit a crime, involving the same  
18 victim as the present offense under any of the following provisions of  
19 Idaho Code or a substantially conforming foreign criminal violation  
20 within seven (7) years, notwithstanding the form of the judgment or  
21 withheld judgment:

22 (i) Chapter 9, title 18;

23 (ii) Chapter 15, title 18;

24 (iii) Chapter 61, title 18;

25 (iv) Section 18-4014 (administering poison with intent to kill);

26 (v) Section 18-4015 (assault with intent to murder);

27 (vi) Section 18-4501 (kidnapping);

28 (vii) Section 18-5501 (poisoning);

29 (viii) Section 18-660~~3~~4 (forcible sexual penetration by use of  
30 foreign object);

31 (ix) Section 18-7902 (malicious harassment); or

32 (x) Section 18-8103 (act of terrorism).

33 (2) In this section, "course of conduct" and "victim" have the meanings  
34 given in section 18-7906(2), Idaho Code.

35 (3) For the purpose of this section, a "substantially conforming for-  
36 eign criminal violation" exists when a person has pled guilty to or has been  
37 found guilty of a violation of any federal law or law of another state, or any  
38 valid county, city, or town ordinance of another state substantially con-  
39 forming to the provisions of this section or section 18-7906, Idaho Code.  
40 The determination of whether a foreign criminal violation is substantially  
41 conforming is a question of law to be determined by the court.

42 (4) Stalking in the first degree is a felony punishable by a fine not  
43 exceeding ten thousand dollars (\$10,000) or imprisonment in the state prison  
44 for not less than one (1) year nor more than five (5) years, or by both such  
45 fine and imprisonment.

46 SECTION 17. That Section 18-8303, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

48 18-8303. DEFINITIONS. As used in this chapter:

1 (1) "Aggravated offense" means any of the following crimes: 18-1506A  
2 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder  
3 committed in the perpetration of rape); 18-4502 (first-degree kidnapping  
4 committed for the purpose of rape, ~~committing an infamous crime against~~  
5 ~~nature~~, committing any lewd and lascivious act upon any child under the  
6 age of sixteen years or for purposes of sexual gratification or arousal);  
7 18-4503 (second-degree kidnapping where the victim is an unrelated minor  
8 child and the kidnapping is committed for the purpose of rape, ~~committing~~  
9 ~~an infamous crime against nature~~, committing any lewd and lascivious act  
10 upon any child under the age of sixteen years or for purposes of sexual  
11 gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1)  
12 where the victim is at least twelve years of age or the defendant is eighteen  
13 years of age); 18-660~~84~~ (forcible penetration by use of a foreign object);  
14 18-8602(1)(a)(i) (sex trafficking); and any other offense set forth in sec-  
15 tion 18-8304, Idaho Code, if at the time of the commission of the offense the  
16 victim was below the age of thirteen (13) years or an offense that is sub-  
17 stantially similar to any of the foregoing offenses under the laws of another  
18 jurisdiction or military court or the court of another country.

19 (2) "Board" means the sexual offender management board described in  
20 section 18-8312, Idaho Code.

21 (3) "Central registry" means the registry of convicted sexual offend-  
22 ers maintained by the Idaho state police pursuant to this chapter.

23 (4) "Certified evaluator" means either a psychiatrist licensed by this  
24 state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral  
25 level mental health professional licensed by this state pursuant to chap-  
26 ter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall  
27 have by education, experience and training, expertise in the assessment and  
28 treatment of sexual offenders, and such person shall meet the qualifications  
29 and shall be approved by the board to perform psychosexual evaluations in  
30 this state, as described in section 18-8314, Idaho Code.

31 (5) "Department" means the Idaho state police.

32 (6) "Employed" means full-time or part-time employment exceeding ten  
33 (10) consecutive working days or for an aggregate period exceeding thirty  
34 (30) days in any calendar year, or any employment that involves counseling,  
35 coaching, teaching, supervising or working with minors in any way regardless  
36 of the period of employment, whether such employment is financially compen-  
37 sated, volunteered or performed for the purpose of any government or educa-  
38 tion benefit.

39 (7) "Foreign conviction" means a conviction under the laws of Canada,  
40 Great Britain, Australia or New Zealand, or a conviction under the laws of  
41 any foreign country deemed by the U.S. department of state, in its country  
42 reports on human rights practices, to have been obtained with sufficient  
43 safeguards for fundamental fairness and due process.

44 (8) "Incarceration" means committed to the custody of the Idaho de-  
45 partment of correction or department of juvenile corrections, but excluding  
46 cases where the court has retained jurisdiction.

47 (9) "Jurisdiction" means any of the following: a state, the District of  
48 Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the North-  
49 ern Mariana Islands, the United States Virgin Islands, the federal govern-  
50 ment or a federally recognized Indian tribe.

1 (10) "Minor" means an individual who has not attained the age of eigh-  
2 teen (18) years.

3 (11) "Offender" means an individual convicted of an offense listed and  
4 described in section 18-8304, Idaho Code, or a substantially similar offense  
5 under the laws of another jurisdiction or military court or the court of an-  
6 other country deemed by the U.S. department of state, in its country reports  
7 on human rights practices, to have sufficient safeguards for fundamental  
8 fairness and due process.

9 (12) "Offense" means a sexual offense listed in section 18-8304, Idaho  
10 Code.

11 (13) "Psychosexual evaluation" means an evaluation that specifically  
12 addresses sexual development, sexual deviancy, sexual history and risk of  
13 reoffense as part of a comprehensive evaluation of an offender.

14 (14) "Recidivist" means an individual convicted two (2) or more times of  
15 any offense requiring registration under this chapter.

16 (15) "Residence" means the offender's present place of abode.

17 (16) "Student" means a person who is enrolled on a full-time or  
18 part-time basis, in any public or private educational institution, includ-  
19 ing any secondary school, trade or professional institution or institution  
20 of higher education.

21 (17) "Violent sexual predator" means a person who was designated  
22 as a violent sexual predator by the ~~sex~~ sexual offender ~~classification~~  
23 management board where such designation has not been removed by judicial  
24 action or otherwise.

25 SECTION 18. That Section 18-8304, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-  
28 visions of this chapter shall apply to any person who:

29 (a) On or after July 1, 1993, is convicted of the crime, or an at-  
30 tempt, a solicitation, or a conspiracy to commit a crime provided for  
31 in section 18-909 (assault with intent to commit rape, ~~infamous crime~~  
32 ~~against nature~~, or lewd and lascivious conduct with a minor, but ex-  
33 cluding mayhem, murder or robbery), 18-911 (battery with intent to  
34 commit rape, ~~infamous crime against nature~~, or lewd and lascivious  
35 conduct with a minor, but excluding mayhem, murder or robbery), 18-919  
36 (sexual exploitation by a medical care provider), 18-925 (aggravated  
37 sexual battery), 18-1505B (sexual abuse and exploitation of a vul-  
38 nerable adult), 18-1506 (sexual abuse of a child under sixteen years  
39 of age), 18-1506A (ritualized abuse of a child), felony violations of  
40 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with  
41 a minor child), 18-1508A (sexual battery of a minor child sixteen or  
42 seventeen years of age), 18-1509A (enticing a child over the inter-  
43 net), 18-4003(d) (murder committed in perpetration of rape), 18-4116  
44 (indecent exposure, but excluding a misdemeanor conviction), 18-4502  
45 (first degree kidnapping committed for the purpose of rape, ~~committing~~  
46 ~~the infamous crime against nature~~ or for committing any lewd and las-  
47 civious act upon any child under the age of sixteen, or for purposes of  
48 sexual gratification or arousal), 18-4503 (second degree kidnapping  
49 where the victim is an unrelated minor child), 18-5605 (detention for

1 prostitution), 18-5609 (inducing person under eighteen years of age  
2 into prostitution), 18-5610 (utilizing a person under eighteen years of  
3 age for prostitution), 18-5611 (inducing person under eighteen years of  
4 age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1)  
5 where the defendant is eighteen years of age), 18-6110 (sexual contact  
6 with a prisoner), 18-6602~~1~~ (incest), ~~18-6605 (crime against nature),~~  
7 18-6602 (sexual abuse of an animal), 18-6603 (sexual abuse of human  
8 remains), 18-6608~~4~~ (forcible penetration by use of a foreign object),  
9 18-6609~~5~~ (video voyeurism where the victim is a minor or upon a second or  
10 subsequent conviction), 18-7804 (if the racketeering act involves kid-  
11 napping of a minor) or 18-8602(1) (a) (i) (sex trafficking), Idaho Code.

12 (b) On or after July 1, 1993, has been convicted of any crime, an at-  
13 tempt, a solicitation or a conspiracy to commit a crime in another ju-  
14 risdiction, including military courts, or who has a foreign conviction  
15 that is substantially equivalent to the offenses listed in paragraphs  
16 (a) and (f) of this subsection and enters this state to establish resi-  
17 dence or for employment purposes or to attend, on a full-time or part-  
18 time basis, any public or private educational institution including any  
19 secondary school, trade or professional institution or institution of  
20 higher education.

21 (c) Has been convicted of any crime, an attempt, a solicitation or a  
22 conspiracy to commit a crime in another jurisdiction, including mil-  
23 itary courts, or who has a foreign conviction that is substantially  
24 equivalent to the offenses listed in paragraphs (a) and (f) of this sub-  
25 section and was required to register as a sex offender in any other state  
26 or jurisdiction when he established residency in Idaho.

27 (d) Pleads guilty to or has been found guilty of a crime covered in this  
28 chapter prior to July 1, 1993, and the person, as a result of the of-  
29 fense, is incarcerated in a county jail facility or a penal facility or  
30 is under probation or parole supervision, on or after July 1, 1993.

31 (e) Is a nonresident regularly employed or working in Idaho or is a stu-  
32 dent in the state of Idaho and was convicted, found guilty or pleaded  
33 guilty to a crime covered by this chapter and, as a result of such con-  
34 viction, finding or plea, is required to register in his state of resi-  
35 dence.

36 (f) On or after July 1, 1993, is convicted of the crime or an attempt,  
37 solicitation, or conspiracy to commit the infamous crime against na-  
38 ture, a felony offense formerly codified in chapter 66, title 18, Idaho  
39 Code, and whose conviction is entered before July 1, 2022.

40 (2) An offender shall not be required to comply with the registration  
41 provisions of this chapter while incarcerated in a correctional institution  
42 of the department of correction, a county jail facility, committed to the de-  
43 partment of juvenile corrections or committed to a mental health institution  
44 of the department of health and welfare.

45 (3) A conviction for purposes of this chapter means that the person has  
46 pled guilty or has been found guilty, notwithstanding the form of the judg-  
47 ment or withheld judgment.

48 (4) The department shall have authority to promulgate rules to imple-  
49 ment the provisions of this chapter.

1 SECTION 19. That section 18-8704, Idaho Code, as enacted by Section 1,  
2 Chapter 289, Laws of 2021, be, and the same is hereby amended to read as fol-  
3 lows:

4 18-87804. ABORTION FOLLOWING DETECTION OF A FETAL HEARTBEAT PROHIB-  
5 ITED. A person may not perform an abortion on a pregnant woman when a fetal  
6 heartbeat has been detected, except in the case of a medical emergency, in  
7 the case of rape as defined in section 18-6101, Idaho Code, or in the case of  
8 incest as described in section 18-6602~~1~~, Idaho Code. In the case of rape or  
9 incest:

10 (1) If the woman is not a minor or subject to guardianship, then, prior  
11 to the performance of the abortion, the woman has reported the act of rape or  
12 incest to a law enforcement agency and provided a copy of such report to the  
13 physician who is to perform the abortion; or

14 (2) If the woman is a minor or subject to guardianship, then, prior to  
15 the performance of the abortion, the woman or her parent or guardian has re-  
16 ported the act of rape or incest to a law enforcement agency or child protec-  
17 tive services and a copy of such report have been provided to the physician  
18 who is to perform the abortion.

19 SECTION 20. That Section 19-2515, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 19-2515. SENTENCE IN CAPITAL CASES -- SPECIAL SENTENCING PROCEEDING  
22 -- STATUTORY AGGRAVATING CIRCUMSTANCES -- SPECIAL VERDICT OR WRITTEN FIND-  
23 INGS. (1) Except as provided in section 19-2515A, Idaho Code, a person con-  
24 victed of murder in the first degree shall be liable for the imposition of  
25 the penalty of death if such person killed, intended a killing, or acted with  
26 reckless indifference to human life, irrespective of whether such person di-  
27 rectly committed the acts that caused death.

28 (2) Where a person is sentenced to serve a term in the penitentiary,  
29 after conviction of a crime which falls within the provisions of section  
30 20-1005, Idaho Code, except in cases where the court retains jurisdiction,  
31 the comments and arguments of the counsel for the state and the defendant  
32 relative to the sentencing and the comments of the judge relative to the  
33 sentencing shall be recorded. If the comments are recorded electronically,  
34 they need not be transcribed. Otherwise, they shall be transcribed by the  
35 court reporter.

36 (3) Where a person is convicted of an offense which may be punishable by  
37 death, a sentence of death shall not be imposed unless:

38 (a) A notice of intent to seek the death penalty was filed and served as  
39 provided in section 18-4004A, Idaho Code; and

40 (b) The jury, or the court if a jury is waived, finds beyond a reason-  
41 able doubt at least one (1) statutory aggravating circumstance. Where  
42 a statutory aggravating circumstance is found, the defendant shall be  
43 sentenced to death unless mitigating circumstances which may be pre-  
44 sented are found to be sufficiently compelling that the death penalty  
45 would be unjust. The jury shall not direct imposition of a sentence of  
46 death unless it unanimously finds at least one (1) statutory aggravat-  
47 ing circumstance and unanimously determines that the penalty of death  
48 should be imposed.

1 (4) Notwithstanding any court rule to the contrary, when a defendant is  
2 adjudicated guilty of murder in the first degree, whether by acceptance of a  
3 plea of guilty, by verdict of a jury, or by decision of the trial court sit-  
4 ting without a jury, no presentence investigation shall be conducted; pro-  
5 vided however, that if a special sentencing proceeding is not held or if a  
6 special sentencing proceeding is held but no statutory aggravating circum-  
7 stance has been proven beyond a reasonable doubt, the court may order that a  
8 presentence investigation be conducted.

9 (5) (a) If a person is adjudicated guilty of murder in the first degree,  
10 whether by acceptance of a plea of guilty, by verdict of a jury, or by de-  
11 cision of the trial court sitting without a jury, and a notice of intent  
12 to seek the death penalty was filed and served as provided in section  
13 18-4004A, Idaho Code, a special sentencing proceeding shall be held  
14 promptly for the purpose of hearing all relevant evidence and arguments  
15 of counsel in aggravation and mitigation of the offense. Information  
16 concerning the victim and the impact that the death of the victim has  
17 had on the victim's family is relevant and admissible. Such information  
18 shall be designed to demonstrate the victim's uniqueness as an individ-  
19 ual human being and the resultant loss to the community by the victim's  
20 death. Characterizations and opinions about the crime, the defendant  
21 and the appropriate sentence shall not be permitted as part of any vic-  
22 tim impact information. The special sentencing proceeding shall be  
23 conducted before a jury unless a jury is waived by the defendant with the  
24 consent of the prosecuting attorney.

25 (b) If the defendant's guilt was determined by a jury verdict, the same  
26 jury shall hear the special sentencing proceeding; provided however,  
27 that if it is impracticable to reconvene the same jury to hear the spe-  
28 cial sentencing proceeding due to an insufficient number of jurors, the  
29 trial court may dismiss that jury and convene a new jury of twelve (12)  
30 persons, plus alternate jurors as the trial court deems necessary pur-  
31 suant to section 19-1904, Idaho Code.

32 (c) If the defendant's guilt was determined by a plea of guilty or by a  
33 decision of the trial court sitting without a jury, or if a retrial of  
34 the special sentencing proceeding is necessary for any reason includ-  
35 ing, but not limited to, a mistrial in a previous special sentencing  
36 proceeding or as a consequence of a remand from an appellate court, the  
37 trial court shall impanel a jury of twelve (12) persons, plus alternate  
38 jurors as the trial court deems necessary pursuant to section 19-1904,  
39 Idaho Code, unless such jury is waived.

40 (d) If a special sentencing proceeding is conducted before a newly im-  
41 paneled jury pursuant to the provisions of subsection (5) (b) or (5) (c)  
42 of this section, the state and the defense may present evidence to in-  
43 form the jury of the nature and circumstances of the murder for which the  
44 defendant was convicted. The newly impaneled jury shall be instructed  
45 that the defendant has previously been found guilty of first-degree  
46 murder and that the jury's purpose is limited to making findings rele-  
47 vant for sentencing.

48 (6) At the special sentencing proceeding, the state and the defendant  
49 shall be entitled to present all relevant evidence in aggravation and miti-  
50 gation. Disclosure of evidence to be relied on in the sentencing proceeding

1 shall be made in accordance with Idaho criminal rule 16. Evidence admitted  
2 at trial shall be considered and need not be repeated at the sentencing hear-  
3 ing.

4 (7) The jury shall be informed as follows:

5 (a) If the jury finds that a statutory aggravating circumstance exists  
6 and no mitigating circumstances exist which would make the imposition  
7 of the death penalty unjust, the defendant will be sentenced to death by  
8 the court.

9 (b) If the jury finds the existence of a statutory aggravating circum-  
10 stance but finds that the existence of mitigating circumstances makes  
11 the imposition of the death penalty unjust or the jury cannot unani-  
12 mously agree on whether the existence of mitigating circumstances makes  
13 the imposition of the death penalty unjust, the defendant will be sen-  
14 tenced to a term of life imprisonment without the possibility of parole;  
15 and

16 (c) If the jury does not find the existence of a statutory aggravating  
17 circumstance or if the jury cannot unanimously agree on the existence of  
18 a statutory aggravating circumstance, the defendant will be sentenced  
19 by the court to a term of life imprisonment with a fixed term of not less  
20 than ten (10) years.

21 (8) Upon the conclusion of the evidence and arguments in mitigation and  
22 aggravation:

23 (a) With regard to each statutory aggravating circumstance alleged by  
24 the state, the jury shall return a special verdict stating:

25 (i) Whether the statutory aggravating circumstance has been  
26 proven beyond a reasonable doubt; and

27 (ii) If the statutory aggravating circumstance has been proven  
28 beyond a reasonable doubt, whether all mitigating circumstances,  
29 when weighed against the aggravating circumstance, are suffi-  
30 ciently compelling that the death penalty would be unjust.

31 (b) If a jury has been waived, the court shall:

32 (i) Make written findings setting forth any statutory aggravat-  
33 ing circumstance found beyond a reasonable doubt;

34 (ii) Set forth in writing any mitigating circumstances consid-  
35 ered; and

36 (iii) Upon weighing all mitigating circumstances against each  
37 statutory aggravating circumstance separately, determine whether  
38 mitigating circumstances are found to be sufficiently compelling  
39 that the death penalty would be unjust and detail in writing its  
40 reasons for so finding.

41 (9) The following are statutory aggravating circumstances, at least  
42 one (1) of which must be found to exist beyond a reasonable doubt before a  
43 sentence of death can be imposed:

44 (a) The defendant was previously convicted of another murder.

45 (b) At the time the murder was committed the defendant also committed  
46 another murder.

47 (c) The defendant knowingly created a great risk of death to many per-  
48 sons.

1 (d) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.

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4 (e) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.

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6 (f) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.

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8 (g) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.

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12 (h) The murder was committed in the perpetration of, or attempt to perpetrate, ~~an infamous crime against nature~~, lewd and lascivious conduct with a minor, sexual abuse of a child under sixteen (16) years of age, ritualized abuse of a child, sexual exploitation of a child, sexual battery of a minor child sixteen (16) or seventeen (17) years of age, or forcible sexual penetration by use of a foreign object, and the defendant killed, intended a killing, or acted with reckless indifference to human life.

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18 (i) The defendant, by his conduct, whether such conduct was before, during or after the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.

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22 (j) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty or because of the victim's former or present official status.

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26 (k) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

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30 SECTION 21. That Section 19-2520C, Idaho Code, be, and the same is hereby amended to read as follows:

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32 19-2520C. EXTENSION OF PRISON TERMS FOR REPEATED SEX OFFENSES, EXTORTION AND KIDNAPPING. (1) Any person who is found guilty of violation of the provisions of sections 18-2401 (extortion), 18-4501 (kidnapping), 18-6101 (rape), ~~18-6605 (crime against nature)~~, or 18-1508 (lewd and lascivious conduct), Idaho Code, or any attempt or conspiracy to commit such crime(s); and committed such crime(s) by force, violence, duress, menace or threat of great bodily injury and who has been previously found guilty of any such crime, shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years; provided, however, that no extension shall be imposed under this section for any such crime occurring prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony; provided further that no extension shall be imposed under this subsection when the provisions of section 19-2520B, Idaho Code, would be applicable.

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48 (2) Any person found guilty of an offense specified in subsection (1) of this section who has served two (2) or more prior prison terms for any

1 crime specified in subsection (1) hereof, shall be sentenced to an extended  
2 term sentence. The extended term of imprisonment authorized in this sec-  
3 tion shall be computed by increasing the maximum sentence authorized for the  
4 crime for which the person was convicted by twenty (20) years; provided, that  
5 no extended term of imprisonment shall be imposed under this subsection for  
6 any prison term served prior to a period of fifteen (15) years during which  
7 the person remained free of prison custody, parole and being found guilty of  
8 a crime which is a felony.

9 (3) The extended terms of imprisonment required by this section shall  
10 apply to any aider or abettor; a person who acts in concert with, or a person  
11 who conspires with, the perpetrator of the crime.

12 (4) Any extended term of imprisonment required by this section shall  
13 not be imposed unless the fact of the prior commission of a crime is sep-  
14 arately charged in the accusatory pleading and admitted by the accused or  
15 found to be true by the trier of fact after a verdict or finding of guilty on  
16 the substantive crime.

17 SECTION 22. That Section 19-3004A, Idaho Code, be, and the same is  
18 hereby amended to read as follows:

19 19-3004A. ADMINISTRATIVE SUBPOENA -- ELECTRONIC COMMUNICATION AND  
20 REMOTE COMPUTING SERVICES. (1) A provider of an electronic communication  
21 service or remote computing service that is transacting or has transacted  
22 any business in the state shall disclose the following to a prosecuting at-  
23 torney or the attorney general pursuant to an administrative subpoena issued  
24 by the prosecuting attorney or attorney general:

25 (a) Records and information in its possession containing the name, ad-  
26 dress, local and long distance telephone connection records, or records  
27 of session times and durations, length of service, including the start  
28 date; and

29 (b) Records and information in its possession containing the types of  
30 service utilized, telephone or instrument number or other subscriber  
31 number or identity, including any temporarily assigned network ad-  
32 dress; and

33 (c) Records and information in its possession relating to the means and  
34 source of payment for such service pertaining to a subscriber to or cus-  
35 tomer of such service.

36 The provider of an electronic communication service or remote computing  
37 service shall deliver the records to the prosecuting attorney or attorney  
38 general within fourteen (14) days of receipt of the subpoena.

39 (2) For the purpose of this section, the following definitions shall  
40 apply:

41 (a) "Electronic communication service" has the same meaning as pro-  
42 vided in section 18-6701(13), Idaho Code.

43 (b) "Remote computing service" means the provision to the public of  
44 computer storage or processing service by means of an electronic commu-  
45 nications system as defined in section 18-6701(12), Idaho Code.

46 (3) In order to obtain the records or information, the prosecuting at-  
47 torney or attorney general shall certify on the face of the subpoena that  
48 there is reason to believe that the records or information being sought are  
49 relevant to a legitimate law enforcement investigation concerning a viola-

1 tion of section 18-1505B, 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A,  
2 18-1509, 18-1509A, 18-1515, 18-2202, or 18-66095, Idaho Code.

3 (4) No subpoena issued pursuant to this section shall demand records  
4 that disclose the content of electronic communications or subscriber  
5 account records disclosing internet locations which have been accessed in-  
6 cluding, but not limited to, websites, chat channels and news groups, but  
7 excluding servers used to initially access the internet. No recipient of a  
8 subpoena issued pursuant to this section shall provide any such content or  
9 records accessed, in response to the subpoena.

10 (5) On a motion made by the electronic communication service or remote  
11 computing service provider prior to the time for appearance or the produc-  
12 tion of documents under the subpoena issued pursuant to this section, a court  
13 of competent jurisdiction may quash or modify the administrative subpoena if  
14 the provider establishes that the records or other information requested are  
15 unusually voluminous in nature or if compliance with the subpoena would oth-  
16 erwise cause an undue burden on the service provider.

17 (6) No cause of action shall lie in any court against an electronic  
18 communication service or remote computing service provider, its officers,  
19 employees, agents or other specified persons for providing information,  
20 facilities or assistance in accordance with the terms of an administrative  
21 subpoena issued under this section.

22 (7) A person who is subpoenaed under this section and who fails to ap-  
23 pear or produce materials as required by the subpoena, or who refuses to be  
24 sworn or give testimony, may be found to be in contempt of court. Proceed-  
25 ings to hold a person in contempt under this subsection may be brought in the  
26 county where the subpoena was issued.

27 (8) Nothing in this section shall limit the right of a prosecuting at-  
28 torney or the attorney general to otherwise obtain records or information  
29 from a provider of electronic communication service or remote computing ser-  
30 vice pursuant to a search warrant, a court order or a grand jury or trial sub-  
31 poena.

32 SECTION 23. That Section 20-509, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR  
35 SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eigh-  
36 teen (18) years, who is alleged to have committed any of the following crimes  
37 or any person under age fourteen (14) years who is alleged to have committed  
38 any of the following crimes and, pursuant to section 20-508, Idaho Code, has  
39 been ordered by the court to be held for adult criminal proceedings:

40 (a) Murder of any degree or attempted murder;

41 (b) Robbery;

42 (c) Rape as defined in section 18-6101, Idaho Code;

43 (d) Forcible sexual penetration by the use of a foreign object;

44 (e) ~~Infamous crimes against nature, committed by force or violence;~~

45 ~~(f) Mayhem;~~

46 (g) Assault or battery with the intent to commit any of the above seri-  
47 ous felonies;

48 (h) A violation of the provisions of section 37-2732(a) (1) (A), (B) or  
49 (C), Idaho Code, when the violation occurred on or within one thousand

1 (1,000) feet of the property of any public or private primary or sec-  
2 ondary school, or in those portions of any building, park, stadium or  
3 other structure or grounds which were, at the time of the violation, be-  
4 ing used for an activity sponsored by or through such a school; and

5 (±h) Arson in the first degree and aggravated arson;  
6 shall be charged, arrested and proceeded against by complaint, indictment  
7 or information as an adult. All other felonies or misdemeanors charged in  
8 the complaint, indictment or information, which are based on the same act  
9 or transaction or on one (1) or more acts or transactions as the violent  
10 or controlled substances offense shall similarly be charged, arrested and  
11 proceeded against as an adult. Any juvenile proceeded against pursuant to  
12 this section shall be accorded all constitutional rights, including bail and  
13 trial by jury, and procedural safeguards as if that juvenile were an adult  
14 defendant.

15 (2) Once a juvenile has been formally charged or indicted pursuant to  
16 this section or has been transferred for criminal prosecution as an adult  
17 pursuant to the waiver provisions of section 20-508, Idaho Code, or this sec-  
18 tion, the juvenile shall be held in a county jail or other adult prison facil-  
19 ity unless the court, after finding good cause, orders otherwise.

20 (3) Except as otherwise allowed by subsection (4) of this section,  
21 once a juvenile offender has been found to have committed the offense for  
22 which the juvenile offender was charged, indicted or transferred pursuant  
23 to this section or section 20-508, Idaho Code, or has been found guilty or  
24 pled guilty to a lesser offense or amended charge growing out of or included  
25 within the original charge, whether or not such lesser offense or amended  
26 charge is included within the acts enumerated in subsection (1) of this sec-  
27 tion, the juvenile offender shall thereafter be handled in every respect as  
28 an adult. For any subsequent violation of Idaho law, the juvenile offender  
29 shall be handled in every respect as an adult.

30 (4) Upon the conviction of a juvenile offender pursuant to this sec-  
31 tion, the sentencing judge may, if a finding is made that adult sentencing  
32 measures would be inappropriate:

33 (a) Sentence the convicted person in accordance with the juvenile sen-  
34 tencing options set forth in this chapter; or

35 (b) Sentence the convicted person to the county jail or to the custody  
36 of the state board of correction but suspend the sentence pursuant to  
37 section 19-2601A, Idaho Code, and commit the defendant to the dual cus-  
38 tody of the department of juvenile corrections and the state board of  
39 correction.

40 SECTION 24. That Section 20-525A, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --  
43 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in  
44 a case under this act and found to be within the purview of the act for having  
45 committed a felony offense or having been committed to the department of ju-  
46 venile corrections may, after the expiration of five (5) years from the date  
47 of termination of the continuing jurisdiction of the court, or, in case the  
48 juvenile offender was committed to the juvenile correctional center, five  
49 (5) years from the date of his release from the juvenile correctional center,

1 or after reaching age eighteen (18) years, whichever occurs last, petition  
 2 the court for the expungement of his record. Upon the filing of the petition,  
 3 the court shall set a date for a hearing and shall notify the prosecuting  
 4 attorney of the pendency of the petition and of the date of the hearing. The  
 5 prosecuting attorney and any other person who may have relevant information  
 6 about the petitioner may testify at the hearing.

7 (2) Any person who has been adjudicated in a case under this act and  
 8 found to be within the purview of the act for having committed misdemeanor or  
 9 status offenses only and not having been committed to the department of ju-  
 10 venile corrections may, after the expiration of one (1) year from the date  
 11 of termination of the continuing jurisdiction of the court or after reaching  
 12 age eighteen (18) years, whichever occurs later, petition the court for the  
 13 expungement of his record. Upon the filing of the petition, the court shall  
 14 set a date for a hearing and shall notify the prosecuting attorney of the pen-  
 15 dency of the petition and the date of the hearing. The prosecuting attorney  
 16 and any other person who may have relevant information about the petitioner  
 17 may testify at the hearing.

18 (3) In any case where the prosecuting attorney has elected to utilize  
 19 the diversion process or the court orders an informal adjustment pursuant to  
 20 section 20-511, Idaho Code, the person may, after the expiration of one (1)  
 21 year from the date of termination of the continuing jurisdiction of the court  
 22 or after reaching age eighteen (18) years, whichever occurs later, petition  
 23 the court for the expungement of his record. Upon the filing of the peti-  
 24 tion, the court shall set a date for a hearing and shall notify the prosecut-  
 25 ing attorney of the pendency of the petition and the date of the hearing. The  
 26 prosecuting attorney and any other person who may have relevant information  
 27 about the petitioner may testify at the hearing.

28 (4) The court may not expunge a conviction for any of the following  
 29 crimes from a juvenile offender's record:

- 30 (a) Administering poison with intent to kill (18-4014, Idaho Code);
- 31 (b) Aggravated battery (18-907, Idaho Code);
- 32 (c) Armed robbery (chapter 65, title 18, Idaho Code);
- 33 (d) Arson (chapter 8, title 18, Idaho Code);
- 34 (e) Assault with intent to commit a serious felony (18-909, Idaho  
 35 Code);
- 36 (f) Assault with intent to murder (18-4015, Idaho Code);
- 37 (g) Assault or battery upon certain personnel, felony (18-915, Idaho  
 38 Code);
- 39 (h) Forcible sexual penetration by use of a foreign object (18-6608~~4~~,  
 40 Idaho Code);
- 41 (i) ~~Infamous crime against nature, committed by force or violence (18-~~  
 42 ~~6605, Idaho Code);~~
- 43 ~~(j) Injury to child, felony (18-1501, Idaho Code);~~
- 44 (~~k~~) Kidnapping (18-4501, Idaho Code);
- 45 (~~l~~) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- 46 (~~m~~) Rape, excluding statutory rape (18-6101, Idaho Code);
- 47 (~~n~~) Ritualized abuse of a child (18-1506A, Idaho Code);
- 48 (~~o~~) Sexual exploitation of a child (18-1507, Idaho Code);
- 49 (~~p~~) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- 50 (~~q~~) Voluntary manslaughter (18-4006 1., Idaho Code);

1           (~~g~~) A violation of the provisions of section 37-2732(a) (1) (A), (B) or  
2           (C), Idaho Code, when the violation occurred on or within one thousand  
3           (1,000) feet of the property of any public or private primary or sec-  
4           ondary school, or in those portions of any building, park, stadium or  
5           other structure or grounds which were, at the time of the violation, be-  
6           ing used for an activity sponsored by or through such a school; or  
7           (~~s~~) A violation of the provisions of section 37-2732B, Idaho Code, re-  
8           lated to drug trafficking or manufacturing of illegal drugs.

9           (5) If the court finds after hearing that the petitioner has not been  
10          adjudicated as a juvenile offender for any of the crimes identified in sub-  
11          section (4) of this section, and has not been convicted of a felony, or of a  
12          misdemeanor wherein violence toward another person was attempted or commit-  
13          ted since the termination of the court's jurisdiction or his release from  
14          the juvenile correctional center, and that no proceeding involving such  
15          felony or misdemeanor is pending or being instituted against him, and if the  
16          court further finds to its satisfaction that the petitioner has been held  
17          accountable, is developing life skills necessary to become a contributing  
18          member of the community and that the expungement of the petitioner's record  
19          will not compromise public safety, it shall order all records in the peti-  
20          tioner's case in the custody of the court and all such records, including law  
21          enforcement investigatory reports and fingerprint records, in the custody  
22          of any other agency or official sealed; and shall further order all refer-  
23          ences to said adjudication, diversion or informal adjustment removed from  
24          all indices and from all other records available to the public. However, a  
25          special index of the expungement proceedings and records shall be kept by the  
26          court ordering expungement, which index shall not be available to the public  
27          and shall be revealed only upon order of a court of competent jurisdiction.  
28          Copies of the order shall be sent to each agency or official named in the  
29          order. Upon the entry of the order the proceedings in the petitioner's case  
30          shall be deemed never to have occurred and the petitioner may properly reply  
31          accordingly upon any inquiry in the matter. Inspection of the records may  
32          thereafter be permitted only by the court upon petition by the person who is  
33          the subject of the records, or by any other court of competent jurisdiction,  
34          and only to persons named in the petition.

35          SECTION 25. That Section 20-1005, Idaho Code, be, and the same is hereby  
36          amended to read as follows:

37          20-1005. RULES GOVERNING PAROLE -- LEGISLATIVE INTENT -- RESTRIC-  
38          TIONS -- REQUIRED PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION -- REQUIRED  
39          REPORT. (1) It is the intent of the legislature to focus prison space on those  
40          who commit the most serious offenses or who have the highest likelihood of  
41          offending in the future, and the commission, consistent with the provisions  
42          of this subsection, shall promulgate rules that establish clear guidelines  
43          and procedures that retain the commission's discretion in individual cases.

44          (2) Subject to the provisions of section 20-1004, Idaho Code, the com-  
45          mission shall have the power to establish rules under which any prisoner, ex-  
46          cepting any under sentence of death, may be allowed to go upon parole but to  
47          remain while on parole in the legal custody and under the control of the board  
48          and subject to be taken back into confinement at the direction of the commis-  
49          sion.

1 (3) Any prisoner who is granted parole under the interstate compact may  
2 be required to post a bond prior to release or prior to such acceptance under  
3 the interstate compact; such bond may be posted by the prisoner, the pris-  
4 oner's family, or other interested party. Failure to successfully complete  
5 parole may be grounds for forfeiture of the bond. Upon successful completion  
6 of parole, the amount of the bond may be returned, less an amount for admin-  
7 istrative costs as determined by commission rule, in compliance with chap-  
8 ter 52, title 67, Idaho Code. A request shall be made for return of the bond  
9 within one (1) year of discharge of the offense for which the particular of-  
10 fender was serving parole. Funds collected through the bonding process will  
11 be placed in a separate commission receipts fund that is hereby created in  
12 the state treasury and utilized for the extradition of parole violators.

13 (4) No person serving a sentence for rape, incest, committing a lewd act  
14 upon a child, ~~crime against nature~~, or with an intent or an assault with in-  
15 tent to commit any such crimes, or serving a sentence for sexual abuse of an  
16 animal or sexual abuse of human remains, or whose history and conduct indi-  
17 cate to the commission that the person is a sexually dangerous person, shall  
18 be released on parole except upon the examination and evaluation of one (1)  
19 or more psychiatrists or psychologists or mental health professionals des-  
20 ignated for this purpose by the department to be selected by the commission,  
21 and such evaluation shall be duly considered by the commission in making its  
22 parole determination. The commission may, in its discretion, likewise re-  
23 quire a similar examination and evaluation for persons serving sentences for  
24 crimes other than those described in this subsection. No person making such  
25 evaluation shall be held financially responsible to any person for denial of  
26 parole by the commission or for the results of the future acts of such person  
27 if granted parole.

28 (5) Before considering the parole of any prisoner, the commission shall  
29 ensure that a risk assessment has been conducted pursuant to section 20-224,  
30 Idaho Code, and shall afford the prisoner the opportunity to be interviewed  
31 by the commission, a commissioner, or other commission staff designated by  
32 the executive director. A designated report and risk assessment, prepared  
33 by commission staff or a designated department of correction employee, that  
34 is specifically to be used by the commission in making a parole determination  
35 shall be exempt from public disclosure; such reports contain information  
36 from the presentence investigation report, medical or psychological infor-  
37 mation, the results of a risk assessment, victim information, designated  
38 confidential witness information, and criminal history information. A pa-  
39 role shall be ordered when, in the discretion of the commission, it is in the  
40 best interests of society and the commission believes the prisoner is able  
41 and willing to fulfill the obligations of a law-abiding citizen. Such deter-  
42 mination shall not be a reward of clemency, and it shall not be considered to  
43 be a reduction of sentence or a pardon. The commission may also by its rules  
44 fix the times and conditions under which any application denied may be re-  
45 considered. No action may be maintained against the commission or any of its  
46 members in any court in connection with any decision taken by the commission  
47 to parole a prisoner, and neither the commission nor its members shall be  
48 liable in any way for its action with respect thereto.

49 (6) In making any parole or commutation decision with respect to a pris-  
50 oner, the commission shall consider the current risk assessment, criminal

1 history, program participation, compliance and completion, institutional  
2 misconduct, and other individual characteristics related to the likelihood  
3 of offending in the future, as well as the compliance of the prisoner with  
4 any order of restitution that may have been entered according to section  
5 19-5304, Idaho Code. The commission may make compliance with such an order  
6 of restitution a condition of parole.

7 (7) Except as provided in section 20-1004(3), Idaho Code, no provision  
8 of chapter 52, title 67, Idaho Code, shall apply to the commission.

9 (8) By February 1 of each year, the department and the commission shall  
10 submit a report to the governor, the senate judiciary and rules committee,  
11 and the house of representatives judiciary, rules, and administration com-  
12 mittee that describes the most common reasons for delay or denial of release,  
13 including statistical data supporting the conclusions of the report.

14 SECTION 26. That Section 39-1113, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license  
17 may be denied, suspended or revoked by the department if the department finds  
18 that the applicant or licensee does not comply with the provisions of this  
19 chapter.

20 (2) No person who pleads guilty to, has been found guilty of or received  
21 a withheld judgment for any offense involving neglect or any physical injury  
22 to or other abuse of a child, including the following offenses or a similar  
23 provision in another jurisdiction, shall be eligible for a license under the  
24 provisions of this chapter:

25 (a) Felony injury of a child, section 18-1501, Idaho Code.

26 (b) The sexual abuse of a child under sixteen years of age, section  
27 18-1506, Idaho Code.

28 (c) The ritualized abuse of a child under eighteen years of age, section  
29 18-1506A, Idaho Code.

30 (d) The sexual exploitation of a child, section 18-1507, Idaho Code.

31 (e) Sexual abuse of a child under the age of sixteen years, section  
32 18-1506, Idaho Code.

33 (f) Lewd conduct with a child under the age of sixteen years, section  
34 18-1508, Idaho Code.

35 (g) The sale or barter of a child for adoption or other purposes, sec-  
36 tion 18-1511, Idaho Code.

37 (h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.

38 (i) Assault with intent to murder, section 18-4015, Idaho Code.

39 (j) Voluntary manslaughter, section 18-4006, Idaho Code.

40 (k) Rape, section 18-6101, Idaho Code.

41 (l) Incest, section 18-660~~2~~1, Idaho Code.

42 (m) Forcible sexual penetration by use of foreign object, section  
43 18-660~~3~~4, Idaho Code.

44 (n) Abuse, neglect or exploitation of a vulnerable adult, section  
45 18-1505, Idaho Code.

46 (o) Aggravated, first degree, second degree and third degree arson,  
47 sections 18-801 through 18-805, Idaho Code.

48 (p) ~~Crimes against nature, section 18-6605, Idaho Code.~~ The infamous  
49 crime against nature, a felony offense formerly codified in chapter 66,

1 title 18, Idaho Code, and whose conviction is entered before July 1,  
2 2022.

3 (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.

4 (r) Mayhem, section 18-5001, Idaho Code.

5 (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.

6 (t) Robbery, section 18-6501, Idaho Code.

7 (u) Stalking in the first degree, section 18-7905, Idaho Code.

8 (v) Video voyeurism, section 18-660~~9~~<sup>5</sup>, Idaho Code.

9 (w) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.

10 (x) Inducing individuals under eighteen years of age into prostitu-  
11 tion, section 18-5609, Idaho Code.

12 (y) Inducing person under eighteen years of age to patronize a prosti-  
13 tute, section 18-5611, Idaho Code.

14 (z) Any felony punishable by death or life imprisonment.

15 (aa) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,  
16 Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to  
17 commit any of the crimes designated in this subsection.

18 (bb) Domestic violence, section 18-918(2), Idaho Code.

19 (cc) Any offense requiring registration on a state sex offender reg-  
20 istry or the national sex offender registry.

21 (dd) A felony drug-related offense committed during the preceding five  
22 (5) years.

23 (ee) Sexual abuse of an animal, section 18-6602, Idaho Code.

24 (ff) Sexual abuse of human remains, section 18-6603, Idaho Code.

25 (3) No person who has pleaded guilty to, been found guilty of or re-  
26 ceived a withheld judgment for any offense involving neglect or any physi-  
27 cal injury to or other abuse of a child, including the following offenses or  
28 a similar provision in another jurisdiction, shall be eligible for a license  
29 for a period of five (5) years under the provisions of this chapter:

30 (a) Aggravated assault, section 18-905, Idaho Code.

31 (b) Aggravated battery, section 18-907(1), Idaho Code.

32 (c) Burglary, section 18-1401, Idaho Code.

33 (d) Felony theft, sections 18-2403 and 18-2407(1), Idaho Code.

34 (e) Forgery of a financial transaction card, section 18-3123, Idaho  
35 Code.

36 (f) Fraudulent use of a financial transaction card or number, section  
37 18-3124, Idaho Code.

38 (g) Forgery or counterfeiting, chapter 36, title 18, Idaho Code.

39 (h) Misappropriation of personal identifying information, section  
40 18-3126, Idaho Code.

41 (i) Insurance fraud, section 41-293, Idaho Code.

42 (j) Damage to or destruction of insured property, section 41-294, Idaho  
43 Code.

44 (k) Public assistance fraud, section 56-227, Idaho Code.

45 (l) Provider fraud, section 56-227A, Idaho Code.

46 (m) Attempted strangulation, section 18-923, Idaho Code.

47 (n) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,  
48 Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to  
49 commit any of the crimes designated in this subsection.

50 (o) Misdemeanor injury to a child, section 18-1501(2), Idaho Code.

1 (4) A daycare facility license may be denied, suspended or revoked by  
 2 the department if the department finds that the daycare facility is not in  
 3 compliance with the standards provided for in this chapter or criminal ac-  
 4 tivity that threatens the health or safety of a child.

5 (5) A daycare facility license or privilege to operate a family daycare  
 6 home shall be denied or revoked if a registered sex offender resides on the  
 7 premises where daycare services are provided.

8 (6) The denial, suspension, or revocation of a license under this chap-  
 9 ter may be appealed through the administrative appeals process governed by  
 10 the provisions of IDAPA 16.05.03, with the opportunity for further review by  
 11 the district court of the county in which the affected daycare facility is  
 12 located.

13 SECTION 27. That Section 72-1025, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 72-1025. FINES -- REIMBURSEMENTS -- DISPOSITION. (1) In addition to  
 16 any other fine which may be imposed upon each person found guilty of crimi-  
 17 nal activity, the court shall impose a fine or reimbursement according to the  
 18 following schedule, unless the court orders that such fine or reimbursement  
 19 be waived only when the defendant is indigent and at the time of sentencing  
 20 shows good cause for inability to pay and written findings to that effect are  
 21 entered by the court:

22 (a) For each conviction or finding of guilt of each felony count, a fine  
 23 or reimbursement of not less than seventy-five dollars (\$75.00) per  
 24 felony count;

25 (b) For each conviction or finding of guilt of each misdemeanor count, a  
 26 fine or reimbursement of thirty-seven dollars (\$37.00) per misdemeanor  
 27 count;

28 (c) For each conviction or finding of guilt of an infraction under sec-  
 29 tion 18-8001 or 49-301, Idaho Code, or for each first-time conviction  
 30 or finding of guilt of an infraction under section 23-604 or 23-949,  
 31 Idaho Code, a fine or reimbursement of thirty-seven dollars (\$37.00)  
 32 per count;

33 (d) In addition to any fine or reimbursement ordered under paragraph  
 34 (a) or (b) of this subsection, the court shall impose a fine or reim-  
 35 bursement of not less than three hundred dollars (\$300) per count for  
 36 any conviction or finding of guilt for any sex offense, including,  
 37 but not limited to, offenses pursuant to sections 18-1506, 18-1507,  
 38 18-1508, 18-1508A, 18-6101, ~~18-6605~~ and 18-6608~~4~~, Idaho Code.

39 (2) Notwithstanding the provisions of section ~~19-4705~~, Idaho Code, the  
 40 fines or reimbursements imposed under the provisions of this section shall  
 41 be paid into the crime victims compensation account.

42 SECTION 28. An emergency existing therefor, which emergency is hereby  
 43 declared to exist, this act shall be in full force and effect on and after  
 44 July 1, 2022.