

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 118

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO SEX AND HUMAN TRAFFICKING; AMENDING SECTION 18-5601, IDAHO CODE,
2 TO REVISE A PROVISION REGARDING INTERSTATE TRAFFICKING IN PROSTITU-
3 TION AND TO PROVIDE FOR COMMERCIAL SEXUAL ACTIVITY; AMENDING SECTION
4 18-5602, IDAHO CODE, TO PROVIDE FOR COMMERCIAL SEXUAL ACTIVITY; AMEND-
5 ING SECTION 18-5603, IDAHO CODE, TO PROVIDE FOR COMMERCIAL SEXUAL
6 ACTIVITY; AMENDING SECTION 18-5604, IDAHO CODE, TO PROVIDE FOR COMMER-
7 CIAL SEXUAL ACTIVITY; AMENDING SECTION 18-5605, IDAHO CODE, TO PROVIDE
8 FOR COMMERCIAL SEXUAL ACTIVITY; AMENDING SECTION 18-5606, IDAHO CODE,
9 TO PROVIDE FOR MINOR VICTIMS OF SEX TRAFFICKING, TO REVISE TERMINOLOGY,
10 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-5608, IDAHO
11 CODE, TO PROVIDE FOR MINOR VICTIMS OF SEX TRAFFICKING AND TO MAKE TECH-
12 NICAL CORRECTIONS; AMENDING SECTION 18-5609, IDAHO CODE, TO PROVIDE FOR
13 THE CRIME OF INDUCING A PERSON UNDER EIGHTEEN YEARS OF AGE INTO SEX TRAF-
14 FICKING; AMENDING SECTION 18-5610, IDAHO CODE, TO PROVIDE FOR THE CRIME
15 OF UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR SEX TRAFFICKING;
16 AMENDING SECTION 18-5620, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
17 SECTION 18-5621, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECH-
18 NICAL CORRECTION; AMENDING SECTION 18-8303, IDAHO CODE, TO PROVIDE A
19 CORRECT CODE REFERENCE; AMENDING SECTION 18-8304, IDAHO CODE, TO REVISE
20 TERMINOLOGY; AMENDING SECTION 18-8601, IDAHO CODE, TO REVISE LEGISLA-
21 TIVE INTENT; AMENDING SECTION 18-8602, IDAHO CODE, TO DEFINE TERMS AND
22 TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 86, TITLE 18, IDAHO
23 CODE, BY THE ADDITION OF A NEW SECTION 18-8605, IDAHO CODE, TO ESTABLISH
24 PROVISIONS REGARDING HUMAN TRAFFICKING VICTIM PROTECTION AND REPORTING
25 REQUIREMENTS; AMENDING SECTION 18-8606, IDAHO CODE, TO REVISE TERMI-
26 NOLOGY AND TO REMOVE A PROVISION REGARDING STATE-LICENSED RESIDENTIAL
27 FACILITIES; AMENDING SECTION 33-1208, IDAHO CODE, TO REVISE TERMINOL-
28 OGY; AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE TERMINOLOGY; AND
29 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
30

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

32 SECTION 1. That Section 18-5601, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 18-5601. INTERSTATE TRAFFICKING IN PROSTITUTION. Any person who im-
35 ports a person or persons into this state, or who exports a person or persons
36 from this state, for the purpose of prostitution or engaging in commercial
37 sexual activity as defined in section 18-8602, Idaho Code, or any person who
38 induces, entices or procures such activity, shall be guilty of a felony pun-
39 ishable by imprisonment for a period of not less than two (2) years nor more
40 than twenty (20) years, or by a fine of not less than one thousand dollars
41 (\$1,000), nor more than fifty thousand dollars (\$50,000), or by both such
42 fine and imprisonment.

1 SECTION 2. That Section 18-5602, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-5602. PROCUREMENT -- DEFINITION AND PENALTY. Any person who in-
4 duces, compels, entices, or procures another person to engage in acts as a
5 prostitute or in commercial sexual activity as defined in section 18-8602,
6 Idaho Code, shall be guilty of a felony punishable by imprisonment for a
7 period of not less than two (2) years nor more than twenty (20) years, or by
8 a fine of not less than one thousand dollars (\$1,000) nor more than fifty
9 thousand dollars (\$50,000), or by both such fine and imprisonment.

10 SECTION 3. That Section 18-5603, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 18-5603. RECEIVING PAY FOR PROCUREMENT. Any person who knowingly
13 receives money or any object of value to procure a prostitute or engage in
14 commercial sexual activity as defined in section 18-8602, Idaho Code, shall
15 be guilty of a felony punishable by imprisonment for a period of not less
16 than two (2) years nor more than twenty (20) years, or by a fine of not less
17 than one thousand dollars (\$1,000) nor more than fifty thousand dollars
18 (\$50,000), or by both such fine and imprisonment.

19 SECTION 4. That Section 18-5604, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 18-5604. PAYING FOR PROCUREMENT. Any person who pays another money or
22 any object of value to procure a third person to engage in prostitution or
23 commercial sexual activity as defined in section 18-8602, Idaho Code, shall
24 be guilty of a felony punishable by imprisonment for not less than two (2)
25 years nor more than twenty (20) years, or by a fine of not less than one thou-
26 sand dollars (\$1,000) nor more than fifty thousand dollars (\$50,000), or by
27 both such fine and imprisonment.

28 SECTION 5. That Section 18-5605, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 18-5605. DETENTION FOR PROSTITUTION. Anyone who holds, detains, or
31 restrains, or who attempts to hold, detain or restrain another person for the
32 purpose of compelling such person to engage in prostitution or commercial
33 sexual activity as defined in section 18-8602, Idaho Code, shall be guilty of
34 a felony punishable by imprisonment for not less than two (2) years nor more
35 than twenty (20) years, or by a fine of not less than one thousand dollars
36 (\$1,000) nor more than fifty thousand dollars (\$50,000), or by both such fine
37 and imprisonment.

38 SECTION 6. That Section 18-5606, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 18-5606. ACCEPTING EARNINGS OF A PROSTITUTE OR MINOR VICTIM OF SEX
41 TRAFFICKING. (1) Any person who shall knowingly accept or appropriate any
42 money or item of value from the proceeds or earnings of any person engaged in

1 prostitution as part of a joint venture with such person or any person who
 2 shall knowingly accept or appropriate any money or item of value from the
 3 proceeds or earnings of any minor victim of sex trafficking, as described
 4 in section 18-5610, Idaho Code, shall be guilty of a felony punishable by
 5 imprisonment for a period of not less than two (2) years nor more than twenty
 6 (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor
 7 more than fifty thousand dollars (\$50,000), or by both such fine and impris-
 8 onment.

9 (2) As defined in this section "joint venture" is an undertaking by two
 10 (2) or more persons jointly to carry out a single business enterprise involv-
 11 ing one (1) or more transactions for profit. Such joint venture can be cre-
 12 ated by ~~oral~~ verbal agreement or may be inferred from acts or conduct.

13 SECTION 7. That Section 18-5608, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 18-5608. HARBORING PROSTITUTES OR MINOR VICTIMS OF SEX TRAFFICK-
 16 ING. (1) Any person maintaining, controlling, or supporting a house of
 17 prostitution as defined in this chapter, shall be guilty of a felony.

18 (2) Any person maintaining, controlling, or supporting a minor for the
 19 purposes of sex trafficking, as described in section 18-5610, Idaho Code,
 20 shall be guilty of a felony.

21 (3) A violation of this section shall be punishable by imprisonment for
 22 not less than two (2) years nor more than twenty (20) years, or by a fine of
 23 not less than one thousand dollars (\$1,000) nor more than fifty thousand dol-
 24 lars (\$50,000), or by both such fine and imprisonment.

25 SECTION 8. That Section 18-5609, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 18-5609. INDUCING PERSON UNDER EIGHTEEN YEARS OF AGE INTO PROSTITU-
 28 TION OR SEX TRAFFICKING -- PENALTIES. Every person who induces or attempts
 29 to induce a person under the age of eighteen (18) years to engage in prostitu-
 30 tion or sex trafficking, as described in section 18-5610, Idaho Code, shall
 31 be guilty of a felony punishable by imprisonment in the state penitentiary
 32 for a period of not less than two (2) years, which may be extended to life im-
 33 prisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or
 34 by both such fine and imprisonment.

35 SECTION 9. That Section 18-5610, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 18-5610. UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITU-
 38 TION OR SEX TRAFFICKING -- PENALTIES. (1) Every person who exchanges or of-
 39 fers to exchange anything of value for sexual conduct or sexual contact with
 40 a person under the age of eighteen (18) years shall be guilty of a felony pun-
 41 ishable by imprisonment in the state penitentiary for a period of not less
 42 than two (2) years, which may be extended to life imprisonment, or by a fine
 43 not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment
 44 and fine.

45 (2) As used in this section:

- 1 (a) "Sexual conduct" means sexual intercourse or deviate sexual inter-
2 course.
3 (b) "Sexual contact" means any touching of the sexual organs or other
4 intimate parts of a person not married to the actor for the purpose of
5 arousing or gratifying the sexual desire of either party.
6 (c) "Anything of value" includes, but is not limited to, a fee, food,
7 shelter, clothing, medical care or membership in a criminal gang as de-
8 fined in section 18-8502, Idaho Code.

9 SECTION 10. That Section 18-5620, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 18-5620. FORFEITURE REQUEST -- REBUTTABLE PRESUMPTION. Property sub-
12 ject to criminal forfeiture under the provisions of this chapter shall not
13 be ordered forfeited unless the attorney general or the appropriate prose-
14 cuting attorney has filed a separate allegation within the criminal proceed-
15 ing seeking forfeiture of specific property as described in section 18-5612,
16 Idaho Code. The attorney general or appropriate prosecuting attorney shall
17 file, within fourteen (14) days of the filing of the criminal information or
18 indictment, a separate part II forfeiture request and notice with the trial
19 court.

20 There is a rebuttable presumption that any property of a person subject
21 to the provisions of section 18-5612, Idaho Code, is subject to forfeiture
22 under this chapter if the state of Idaho establishes by a preponderance of
23 the evidence that:

24 (1) The property was acquired by a person during the period of the vio-
25 lation of either section 18-5609 (inducing a person under eighteen years of
26 age into prostitution or sex trafficking) or section 18-5602 (procurement),
27 Idaho Code, or within a reasonable time after such violation; and

28 (2) There was no likely source for such property other than the viola-
29 tion of either section 18-5609 (inducing a person under eighteen years of
30 age into prostitution or sex trafficking) or section 18-5602 (procurement),
31 Idaho Code.

32 SECTION 11. That Section 18-5621, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 18-5621. PRESERVATION OF PROPERTY -- WARRANT OF SEIZURE -- PROTECTIVE
35 ORDERS. (1) Upon application of the state of Idaho, the court may enter a
36 restraining order or injunction, require the execution of a satisfactory
37 performance bond or take any other action to preserve the availability of
38 property described in section 18-5612, Idaho Code, for forfeiture under
39 the provisions of this chapter upon the filing of an indictment or infor-
40 mation charging a violation of either section 18-5609 (inducing a person
41 under eighteen years of age into prostitution or sex trafficking) or section
42 18-5602 (procurement), Idaho Code, for which criminal forfeiture may be
43 ordered and alleging that the property with respect to which the order is
44 sought would, in the event of conviction, be subject to forfeiture under this
45 chapter.

46 (2) The state may request the issuance of a warrant authorizing the
47 seizure of property subject to forfeiture under this chapter in the same man-

1 ner as provided for a search warrant. If the court determines that there is
2 probable cause to believe that the property to be seized would, in the event
3 of conviction, be subject to forfeiture and that an order under subsection
4 (1) of this section may not be sufficient to assure the availability of the
5 property for forfeiture, the court shall issue a warrant authorizing the
6 seizure of such property by the appropriate law enforcement agency upon such
7 terms and conditions as the court shall deem proper.

8 (3) The court may, upon application of the state of Idaho, enter such
9 appropriate restraining orders or injunctions, require the execution of
10 satisfactory performance bonds, appoint receivers, conservators, ap-
11 praisers, accountants or trustees, or take any other action to protect the
12 interest of the state of Idaho in the property subject to forfeiture. Any
13 income accruing to or derived from property subject to forfeiture under this
14 chapter may be used to offset ordinary and necessary expenses to the property
15 that are required by law, or that are necessary to protect the interests of
16 the state of Idaho or third parties.

17 SECTION 12. That Section 18-8303, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 18-8303. DEFINITIONS. As used in this chapter:

20 (1) "Aggravated offense" means any of the following crimes: 18-1506A
21 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder
22 committed in the perpetration of rape); 18-4502 (first-degree kidnapping
23 committed for the purpose of rape, committing any lewd and lascivious act
24 upon any child under the age of sixteen years or for purposes of sexual grati-
25 fication or arousal); 18-4503 (second-degree kidnapping where the victim is
26 an unrelated minor child and the kidnapping is committed for the purpose of
27 rape, committing any lewd and lascivious act upon any child under the age of
28 sixteen years or for purposes of sexual gratification or arousal); 18-6101
29 (rape, but excluding section 18-6101(1) where the victim is at least twelve
30 years of age or the defendant is eighteen years of age); 18-6604 (forcible
31 penetration by use of a foreign object); 18-8602(1)(a)(i) (sex trafficking)
32 human trafficking involving commercial sexual activity as described in sec-
33 tion 18-8602, Idaho Code, in which the person induced to perform such act has
34 not attained eighteen (18) years of age; and any other offense set forth in
35 section 18-8304, Idaho Code, if at the time of the commission of the offense
36 the victim was below the age of thirteen (13) years or an offense that is sub-
37 stantially similar to any of the foregoing offenses under the laws of another
38 jurisdiction or military court or the court of another country.

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

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

43 (4) "Certified evaluator" means either a psychiatrist licensed by this
44 state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral
45 level mental health professional licensed by this state pursuant to chap-
46 ter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall
47 have by education, experience and training, expertise in the assessment and
48 treatment of sexual offenders, and such person shall meet the qualifications

1 and shall be approved by the board to perform psychosexual evaluations in
2 this state, as described in section 18-8314, Idaho Code.

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

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

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

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

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

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

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

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

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

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

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

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

43 (17) "Violent sexual predator" means a person who was designated as a
44 violent sexual predator by the sexual offender management board where such
45 designation has not been removed by judicial action or otherwise.

46 SECTION 13. That Section 18-8304, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-
49 visions of this chapter shall apply to any person who:

1 (a) On or after July 1, 1993, is convicted of the crime, or an at-
2 tempt, a solicitation, or a conspiracy to commit a crime provided for
3 in section 18-909 (assault with intent to commit rape or lewd and las-
4 civious conduct with a minor, but excluding mayhem, murder or robbery),
5 18-911 (battery with intent to commit rape or lewd and lascivious con-
6 duct with a minor, but excluding mayhem, murder or robbery), 18-919
7 (sexual exploitation by a medical care provider), 18-925 (aggravated
8 sexual battery), 18-1505B (sexual abuse and exploitation of a vul-
9 nerable adult), 18-1506 (sexual abuse of a child under sixteen years
10 of age), 18-1506A (ritualized abuse of a child), felony violations of
11 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with
12 a minor child), 18-1508A (sexual battery of a minor child sixteen or
13 seventeen years of age), 18-1509A (enticing a child over the internet),
14 18-4003(d) (murder committed in perpetration of rape), 18-4116 (inde-
15 cent exposure, but excluding a misdemeanor conviction), 18-4502 (first
16 degree kidnapping committed for the purpose of rape or for committing
17 any lewd and lascivious act upon any child under the age of sixteen,
18 or for purposes of sexual gratification or arousal), 18-4503 (sec-
19 ond degree kidnapping where the victim is an unrelated minor child),
20 18-5605 (detention for prostitution), 18-5609 (inducing person under
21 eighteen years of age into prostitution or sex trafficking), 18-5610
22 (utilizing a person under eighteen years of age for prostitution or sex
23 trafficking), 18-5611 (inducing person under eighteen years of age to
24 patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1) where
25 the defendant is eighteen years of age), 18-6110 (sexual contact with
26 a prisoner), 18-6601 (incest), 18-6602 (sexual abuse of an animal),
27 18-6603 (sexual abuse of human remains), 18-6604 (forcible penetration
28 by use of a foreign object), 18-6605 (video voyeurism where the victim
29 is a minor or upon a second or subsequent conviction), or 18-7804 (if the
30 racketeering act involves kidnapping of a minor) or 18-8602(1) (a) (i)
31 (sex trafficking), Idaho Code.

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

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

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

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

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

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

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

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

20 SECTION 14. That Section 18-8601, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 18-8601. LEGISLATIVE INTENT. It is the intent of the legislature to
 23 address the growing problem of human trafficking and to provide criminal
 24 sanctions for persons who engage in human trafficking in this state. In ad-
 25 dition to the other provisions enumerated in this chapter, the legislature
 26 finds that it is appropriate for members of the law enforcement community to
 27 receive training from the respective training entities in order to increase
 28 awareness of human trafficking cases occurring in Idaho and to assist and
 29 direct victims of such trafficking to available community resources and that
 30 it is appropriate for county prosecutors to develop standards of instruc-
 31 tion for training on the investigation and prosecution of human trafficking
 32 crimes and for periodic and timely instruction.

33 SECTION 15. That Section 18-8602, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 18-8602. DEFINITIONS.

36 (1) (a) "Human trafficking" means:

37 (i) Sex trafficking in which commercial sexual activity is in-
 38 duced by force, fraud, or coercion, or in which the person induced
 39 to perform such act has not attained eighteen (18) years of age; or

40 (ii) The recruitment, harboring, transportation, provision, or
 41 obtaining of a person for labor or services, through the use of
 42 force, fraud, or coercion, for the purpose of subjection to invol-
 43 untary servitude, peonage, debt bondage, or slavery.

44 (b) Human trafficking may include, but is not limited to, the use of the
 45 following types of force, fraud, or coercion:

46 (i) Threatening serious harm to, or physical restraint against,
 47 that person or a third person;

1 (ii) Destroying, concealing, removing, or confiscating any pass-
2 port, immigration document, or other government-issued identifi-
3 cation document;

4 (iii) Abusing or threatening abuse of the law or legal process
5 against the person or a third person;

6 (iv) Using a condition of a person being a debtor due to a pledge of
7 the debtor's personal services or the personal services of a per-
8 son under the control of the debtor as a security for debt where the
9 reasonable value of the services is not applied toward the liqui-
10 dation of the debt or the length and nature of those services are
11 not respectively limited and defined; or

12 (v) Using a condition of servitude by means of any scheme, plan,
13 or pattern intended to cause a reasonable person to believe that
14 if the person did not enter into or continue in a condition of
15 servitude, that person or a third person would suffer serious harm
16 or physical restraint or would be threatened with abuse of legal
17 process.

18 (c) "Sex trafficking" includes all forms of commercial sexual activ-
19 ity, which may include the following conduct:

20 (i) Sexual conduct, as defined in section 18-5610(2) (a), Idaho
21 Code;

22 (ii) Sexual contact, as defined in section 18-5610(2) (b), Idaho
23 Code;

24 (iii) Sexually explicit performance;

25 (iv) Prostitution; or

26 (v) Participation in the production of pornography.

27 (2) "Commercial sexual activity" means sexual conduct or sexual con-
28 tact in exchange for anything of value, as defined in section 18-5610(2) (c),
29 Idaho Code, illicit or legal, given to, received by, or promised to any per-
30 son.

31 (3) "Coercion" may include but is not limited to:

32 (a) Restraining, isolating, or confining or threatening to restrain,
33 isolate, or confine any person without lawful authority and against the
34 person's will;

35 (b) Causing or threatening to cause financial harm to any person;

36 (c) Providing a schedule I or schedule II controlled substance as de-
37 scribed in chapter 27, title 37, Idaho Code, to any person for the pur-
38 pose of exploitation of that person.

39 (4) "Financial harm" includes extortionate extension of credit at
40 a rate higher than the legal rate of interest, as described in section
41 28-22-104, Idaho Code, or employment contracts that violate the statute of
42 frauds.

43 (5) "Labor" means work of economic or financial value.

44 (6) "Services" means any act committed at the behest of, under the su-
45 pervision of, or for the benefit of another. The term includes but is not
46 limited to forced marriage, servitude, or the removal of organs.

47 (7) "Sexually explicit performance" means an act or show, whether pub-
48 lic or private, that is live, live-streamed, photographed, recorded, or
49 videotaped and intended to arouse or satisfy the sexual desires or appeal to
50 the prurient interest.

1 SECTION 16. That Chapter 86, Title 18, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 18-8605, Idaho Code, and to read as follows:

4 18-8605. HUMAN TRAFFICKING VICTIM PROTECTION. (1) The attorney gen-
5 eral, in consultation with the department of health and welfare and the
6 United States attorney's office, shall, no later than January 1, 2024, issue
7 a report outlining how existing victim and witness laws respond to the needs
8 of human trafficking victims and suggesting areas of improvement and modi-
9 fication.

10 (2) The department of health and welfare, in consultation with the at-
11 torney general, shall, no later than January 1, 2024, issue a report outlin-
12 ing how existing social service programs respond or fail to respond to the
13 needs of human trafficking victims and the interplay of such existing pro-
14 grams with federally funded victim service programs and suggesting areas of
15 improvement or modification. Such inquiry shall include but not be limited
16 to the ability of state programs and licensing bodies to recognize federal
17 nonimmigrant status for the purposes of benefits, programs, and licenses.

18 SECTION 17. That Section 18-8606, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 18-8606. SAFE HARBOR PROVISIONS. (1) Diversion of ~~minor~~ victim.

21 (a) When a ~~minor~~ victim is alleged to have committed any offense not
22 listed in section 18-310(2), Idaho Code, a prosecutor shall divert the
23 offense if the ~~minor~~ victim committed the offense as a direct and im-
24 mediate result of being a victim of human trafficking, ~~and the victim~~
25 shall receive access to the following specialized services:

26 ~~(b) If a minor has an offense diverted pursuant to paragraph (a) of this~~
27 ~~subsection, the minor shall be placed in a state-licensed residential~~
28 ~~facility, as defined in section 39-1202, Idaho Code, that provides a~~
29 ~~comprehensive rehabilitative program with access to:~~

- 30 (i) Comprehensive case management;
31 (ii) Integrated mental health and chemical dependency services,
32 including specialized trauma recovery services;
33 (iii) Education and employment training services; and
34 (iv) Off-site specialized services, as appropriate.

35 ~~(e) (b)~~ A diversion agreement under this subsection may extend for up to
36 twelve (12) months.

37 ~~(d) (c)~~ Diversion shall only be available pursuant to this section if
38 the ~~minor~~ victim expresses a willingness to cooperate and receive spe-
39 cialized services. If the ~~minor~~ victim is unwilling to cooperate with
40 specialized services, continuation of the diversion shall be at the
41 discretion of the court.

42 (2) A person charged with any offense not identified in section
43 18-310(2), Idaho Code, committed as a direct and immediate result of being
44 a victim of human trafficking may assert an affirmative defense that the
45 person is a victim of human trafficking.

46 SECTION 18. That Section 33-1208, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 33-1208. REVOCATION, SUSPENSION, DENIAL, OR PLACE REASONABLE CONDI-
2 TIONS ON CERTIFICATE -- GROUNDS. (1) The professional standards commission
3 may deny, revoke, suspend, or place reasonable conditions on any certificate
4 issued or authorized under the provisions of section 33-1201, Idaho Code,
5 upon any of the following grounds:

6 (a) Gross neglect of duty;

7 (b) Incompetency;

8 (c) Breach of the teaching contract;

9 (d) Making any material statement of fact in the application for a cer-
10 tificate that the applicant knows to be false;

11 (e) Revocation, suspension, denial, or surrender of a certificate in
12 another state for any reason constituting grounds for revocation in
13 this state;

14 (f) Conviction, finding of guilt, withheld judgment, or suspended sen-
15 tence in this or any other state of a crime that is deemed relevant in ac-
16 cordance with section 67-9411(1), Idaho Code;

17 (g) Conviction, finding of guilt, withheld judgment, or suspended sen-
18 tence in this state or any other state for the delivery, manufacture, or
19 production of controlled substances or simulated controlled substances
20 as those terms are defined in section 37-2701, Idaho Code;

21 (h) A guilty plea or a finding of guilt, notwithstanding the form of the
22 judgment or withheld judgment, in this or any other state of the crime of
23 involuntary manslaughter, section 18-4006(2) or (3), Idaho Code;

24 (i) Any disqualification that would have been sufficient grounds for
25 refusing to issue or authorize a certificate, if the disqualification
26 existed or had been known at the time of its issuance or authorization;

27 (j) Willful violation of any professional code or standard of ethics or
28 conduct adopted by the state board of education;

29 (k) The kidnapping of a child, section 18-4503, Idaho Code;

30 (l) Conviction, finding of guilt, withheld judgment, or suspended sen-
31 tence in this state or any other state of any crime that is deemed rel-
32 evant in accordance with section 67-9411(1), Idaho Code, the commis-
33 sion of which renders the certificated person unfit to teach or other-
34 wise perform the duties of the certificated person's position.

35 (2) The professional standards commission shall permanently revoke any
36 certificate issued or authorized under the provisions of section 33-1201,
37 Idaho Code, and shall deny the application for issuance of a certificate of
38 a person who pleads guilty to or is found guilty of, notwithstanding the form
39 of the judgment or withheld judgment, any of the following felony offenses:

40 (a) Aggravated assault, section 18-905, Idaho Code, or assault with in-
41 tent to commit a serious felony, section 18-909, Idaho Code.

42 (b) Aggravated battery, section 18-907, Idaho Code, or battery with in-
43 tent to commit a serious felony, section 18-911, Idaho Code.

44 (c) The injury or death of a child, section 18-1501, Idaho Code.

45 (d) The sexual abuse of a child under sixteen (16) years of age, section
46 18-1506, Idaho Code.

47 (e) The ritualized abuse of a child under eighteen (18) years of age,
48 section 18-1506A, Idaho Code.

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

1 (g) Lewd conduct with a child under the age of sixteen (16) years, sec-
2 tion 18-1508, Idaho Code.

3 (h) The sexual battery of a minor child sixteen (16) or seventeen (17)
4 years of age, section 18-1508A, Idaho Code.

5 (i) The sale or barter of a child for adoption or other purposes, sec-
6 tion 18-1511, Idaho Code.

7 (j) Murder, section 18-4003, Idaho Code, or voluntary manslaughter,
8 section 18-4006(1), Idaho Code.

9 (k) Kidnapping, section 18-4502, Idaho Code.

10 (l) Interstate trafficking in prostitution, section 18-5601, Idaho
11 Code.

12 (m) Utilizing a person under eighteen (18) years of age for prostitu-
13 tion or sex trafficking, section 18-5610, Idaho Code.

14 (n) Rape, section 18-6101, Idaho Code.

15 The general classes of felonies listed in this subsection shall include
16 equivalent laws of federal or other state jurisdictions. For the purpose of
17 this subsection, "child" means a minor or juvenile as defined by the applica-
18 ble state or federal law.

19 (3) The professional standards commission may investigate and follow
20 the procedures set forth in section 33-1209, Idaho Code, for any allegation
21 of inappropriate conduct as defined in this section by a holder of a cer-
22 tificate whether or not the holder has surrendered his certificate without
23 a hearing or failed to renew his certificate. In those cases where the holder
24 of a certificate has surrendered or failed to renew his certificate and it
25 was found that inappropriate conduct occurred, the commission shall record
26 such findings in the permanent record of the individual and shall deny the
27 issuance of a teaching certificate.

28 (4) Any person whose certificate may be or has been revoked, suspended
29 or denied under the provisions of this section shall be afforded a hearing
30 according to the provisions of section 33-1209, Idaho Code. Any person hold-
31 ing a certificate on or before July 1, 2020, who would not be eligible for a
32 certificate by virtue of the provisions of this section shall be afforded a
33 hearing according to the provisions of section 33-1209, Idaho Code, prior to
34 revocation or denial of the individual's certificate. Upon a showing of just
35 and reasonable cause, the hearing panel shall have authority to grant an ex-
36 ception to the provisions of this section for such person.

37 (5) The professional standards commission may deny the issuance of a
38 certificate for any reason that would be a ground for revocation or suspen-
39 sion.

40 SECTION 19. That Section 39-1113, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 39-1113. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) A license
43 may be denied, suspended or revoked by the department if the department finds
44 that the applicant or licensee does not comply with the provisions of this
45 chapter.

46 (2) No person who pleads guilty to, has been found guilty of or received
47 a withheld judgment for any offense involving neglect or any physical injury
48 to or other abuse of a child, including the following offenses or a similar

- 1 provision in another jurisdiction, shall be eligible for a license under the
2 provisions of this chapter:
- 3 (a) Felony injury of a child, section 18-1501, Idaho Code.
 - 4 (b) The sexual abuse of a child under sixteen years of age, section
5 18-1506, Idaho Code.
 - 6 (c) The ritualized abuse of a child under eighteen years of age, section
7 18-1506A, Idaho Code.
 - 8 (d) The sexual exploitation of a child, section 18-1507, Idaho Code.
 - 9 (e) Sexual abuse of a child under the age of sixteen years, section
10 18-1506, Idaho Code.
 - 11 (f) Lewd conduct with a child under the age of sixteen years, section
12 18-1508, Idaho Code.
 - 13 (g) The sale or barter of a child for adoption or other purposes, sec-
14 tion 18-1511, Idaho Code.
 - 15 (h) Murder in any degree, section 18-4001 or 18-4003, Idaho Code.
 - 16 (i) Assault with intent to murder, section 18-4015, Idaho Code.
 - 17 (j) Voluntary manslaughter, section 18-4006, Idaho Code.
 - 18 (k) Rape, section 18-6101, Idaho Code.
 - 19 (l) Incest, section 18-6601, Idaho Code.
 - 20 (m) Forcible sexual penetration by use of foreign object, section
21 18-6604, Idaho Code.
 - 22 (n) Abuse, neglect or exploitation of a vulnerable adult, section
23 18-1505, Idaho Code.
 - 24 (o) Aggravated, first degree, second degree and third degree arson,
25 sections 18-801 through 18-805, Idaho Code.
 - 26 (p) The infamous crime against nature, a felony offense formerly cod-
27 ified in chapter 66, title 18, Idaho Code, and whose conviction is en-
28 tered before July 1, 2022.
 - 29 (q) Kidnapping, sections 18-4501 through 18-4503, Idaho Code.
 - 30 (r) Mayhem, section 18-5001, Idaho Code.
 - 31 (s) Poisoning, section 18-4014 or 18-5501, Idaho Code.
 - 32 (t) Robbery, section 18-6501, Idaho Code.
 - 33 (u) Stalking in the first degree, section 18-7905, Idaho Code.
 - 34 (v) Video voyeurism, section 18-6605, Idaho Code.
 - 35 (w) Enticing of children, section 18-1509 or 18-1509A, Idaho Code.
 - 36 (x) Inducing individuals under eighteen years of age into prostitution
37 or sex trafficking, section 18-5609, Idaho Code.
 - 38 (y) Inducing person under eighteen years of age to patronize a prosti-
39 tute, section 18-5611, Idaho Code.
 - 40 (z) Any felony punishable by death or life imprisonment.
 - 41 (aa) Attempt, section 18-306, Idaho Code, conspiracy, section 18-1701,
42 Idaho Code, or accessory after the fact, section 18-205, Idaho Code, to
43 commit any of the crimes designated in this subsection.
 - 44 (bb) Domestic violence, section 18-918(2), Idaho Code.
 - 45 (cc) Any offense requiring registration on a state sex offender reg-
46 istry or the national sex offender registry.
 - 47 (dd) A felony drug-related offense committed during the preceding five
48 (5) years.
 - 49 (ee) Sexual abuse of an animal, section 18-6602, Idaho Code.
 - 50 (ff) Sexual abuse of human remains, section 18-6603, Idaho Code.

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

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

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

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

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

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

12 (f) Fraudulent use of a financial transaction card or number, section
13 18-3124, Idaho Code.

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

15 (h) Misappropriation of personal identifying information, section
16 18-3126, Idaho Code.

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

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

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

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

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

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

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

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

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

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

39 SECTION 20. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect on and after
41 July 1, 2023.