

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 178

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE SEXUAL OFFENDER REGISTRATION ACT; AMENDING SECTION
 2 18-8303, IDAHO CODE, TO REVISE A DEFINITION AND TO FURTHER DEFINE
 3 TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
 4 18-8304, IDAHO CODE, TO PROVIDE THAT CHAPTER 83, TITLE 18, IDAHO
 5 CODE, APPLIES TO PERSONS CONVICTED OF CERTAIN CRIMES AND TO
 6 CLARIFY THAT AN OFFENDER IS NOT REQUIRED TO COMPLY WITH THE
 7 SEX OFFENDER REGISTRATION REQUIREMENTS WHILE INCARCERATED;
 8 AND AMENDING SECTION 18-8308, IDAHO CODE, TO REQUIRE ELECTRONIC
 9 MONITORING OF VIOLENT SEXUAL PREDATORS AND TO MAKE TECHNICAL
 10 CORRECTIONS.
 11

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

13 SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to
 14 read as follows:

15 18-8303. DEFINITIONS. As used in this chapter:

16 (1) "Aggravated offense" means any of the following crimes ~~as set forth in section~~
 17 ~~18-8304, Idaho Code:~~ 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct, when
 18 the victim is less than twelve (12) years of age); 18-4003(d) (murder committed in the
 19 perpetration of rape); 18-4502 (first-degree kidnapping committed for the purpose of rape,
 20 committing an infamous crime against nature, committing any lewd and lascivious act upon any
 21 child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503
 22 (second degree kidnapping where the victim is an unrelated minor child and the kidnapping is
 23 committed for the purpose of rape, committing an infamous crime against nature, committing
 24 any lewd and lascivious act upon any child under the age of sixteen years or for purposes of
 25 sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the
 26 victim is at least twelve (12) years of age or the defendant is eighteen (18) years of age or
 27 younger); 18-6108 (male rape); ~~and~~ 18-6608 (forcible sexual penetration by use of a foreign
 28 object); 18-8602(1) (sex trafficking); and any other offense set forth in section 18-8304, Idaho
 29 Code, if at the time of the commission of the offense the victim was below the age of thirteen
 30 years.

31 (2) "Board" means the sexual offender classification board described in section 18-8312,
 32 Idaho Code.

33 (3) "Central registry" means the registry of convicted sexual offenders maintained by the
 34 Idaho state police pursuant to this chapter.

35 (4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to
 36 chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional
 37 licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code.
 38 Such person shall have by education, experience and training, expertise in the assessment

1 and treatment of sexual offenders, and such person shall meet the qualifications and shall be
 2 approved by the board to perform psychosexual evaluations in this state, as described in section
 3 18-8314, Idaho Code.

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

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

11 (7) "Incarceration" means committed to the custody of the Idaho department of
 12 correction or department of juvenile corrections, but excluding cases where the court has
 13 retained jurisdiction.

14 (8) "Offender" means an individual convicted of an offense listed and described in
 15 section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state
 16 or in a federal, tribal or military court or the court of another country.

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

18 (10) "Predatory" means actions directed at an individual who was selected by the offender
 19 for the primary purpose of engaging in illegal sexual behavior.

20 (11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual
 21 development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive
 22 evaluation of an offender.

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

25 (13) "Residence" means the offender's present places of abode or other places where
 26 the offender habitually lives. For purposes of this subsection, "habitually lives" means an
 27 offender's habitual locales when he has no definite or permanent address and includes any
 28 locales where the offender stations himself during the day or night including, but not limited to,
 29 a park, a particular street, a shelter or a library.

30 (14) "Student" means a person who is enrolled on a full-time or part-time basis, in any
 31 public or private educational institution, including any secondary school, trade or professional
 32 institution or institution of higher education.

33 (15) "Violent sexual predator" means a person who has been convicted of an offense
 34 listed in section 18-8314, Idaho Code, and who has been determined to pose a high risk of
 35 committing an offense or engaging in predatory sexual conduct.

36 SECTION 2. That Section 18-8304, Idaho Code, be, and the same is hereby amended to
 37 read as follows:

38 18-8304. APPLICATION OF CHAPTER. (1) The provisions of this chapter shall apply
 39 to any person who:

40 (a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation,
 41 or a conspiracy to commit a crime provided for in section 18-909 (assault with attempt
 42 to commit rape, infamous crime against nature, or lewd and lascivious conduct with
 43 a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to
 44 commit rape, infamous crime against nature, or lewd and lascivious conduct with a
 45 minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a

1 medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult),
 2 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse
 3 of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually
 4 exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with
 5 a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years
 6 of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed
 7 in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor
 8 conviction), 18-4502 (first degree kidnapping committed for the purpose of rape,
 9 committing the infamous crime against nature or for committing any lewd and lascivious
 10 act upon any child under the age of sixteen, or for purposes of sexual gratification or
 11 arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor
 12 child), 18-5609 (inducing person under eighteen years of age into prostitution), 18-6101
 13 (rape, but excluding 18-6101 1. where the defendant is eighteen years of age or younger
 14 or where the defendant is exempted under subsection (4) of this section), 18-6108 (male
 15 rape), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against
 16 nature), 18-6608 (forcible sexual penetration by use of a foreign object), ~~or~~ upon a second
 17 or subsequent conviction under 18-6609, ~~Idaho Code~~ (video voyeurism) or 18-8602(1),
 18 Idaho Code, (sex trafficking).

19 (b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation
 20 or a conspiracy to commit a crime in another state, territory, commonwealth, or other
 21 jurisdiction of the United States, including tribal courts and military courts, that is
 22 substantially equivalent to the offenses listed in subsection (1)(a) of this section and
 23 enters the state to establish permanent or temporary residence.

24 (c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit
 25 a crime in another state, territory, commonwealth, or other jurisdiction of the United
 26 States, including tribal courts and military courts, that is substantially equivalent to the
 27 offenses listed in subsection (1)(a) of this section and was required to register as a sex
 28 offender in any other state or jurisdiction when he established permanent or temporary
 29 residency in Idaho.

30 (d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to
 31 July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail
 32 facility or a penal facility or is under probation or parole supervision, on or after July 1,
 33 1993.

34 (e) Is a nonresident regularly employed or working in Idaho or is a student in the state
 35 of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this
 36 chapter and, as a result of such conviction, finding or plea, is required to register in his
 37 state of residence.

38 ~~(2) The provisions of this chapter~~ An offender shall not apply to any such person
 39 be required to comply with the registration provisions of this chapter while the person is
 40 incarcerated in a correctional institution of the department of correction, a county jail facility,
 41 committed to the department of juvenile corrections or committed to a mental health institution
 42 of the department of health and welfare.

43 (3) A conviction for purposes of this chapter means that the person has pled guilty or has
 44 been found guilty, notwithstanding the form of the judgment or withheld judgment.

45 (4) When a defendant is convicted of rape under section 18-6101 1., Idaho Code, and at
 46 the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more

1 than three (3) years older than the victim of the rape, the court may order that the defendant is
 2 exempt from the requirements of this chapter upon a finding by the court that:

- 3 (a) All parties have stipulated to the exemption; or
 4 (b) The defendant has demonstrated by clear and convincing evidence that he is not a
 5 risk to commit another crime identified in subsection (1) of this section and in the case
 6 there were no allegations by the victim of any violation of section 18-6101 2. through 7.,
 7 Idaho Code.

8 SECTION 3. That Section 18-8308, Idaho Code, be, and the same is hereby amended to
 9 read as follows:

10 18-8308. VERIFICATION OF ADDRESS AND ELECTRONIC MONITORING OF
 11 VIOLENT SEXUAL PREDATORS. (1) ~~Violent sexual predators.~~ The address or physical
 12 residence of an offender designated as a violent sexual predator shall be verified by the
 13 department between registrations.

14 (a) The procedure for verification shall be as follows:

15 (i) The department shall mail a nonforwardable notice of address verification
 16 every thirty (30) days between registrations, to each offender designated as a
 17 violent sexual predator.

18 (ii) Each offender designated as a violent sexual predator shall complete, sign
 19 and return the notice of address verification form to the department within seven
 20 (7) days of the mailing date of the notice. If the notice of address verification
 21 is returned to the department as not delivered, the department shall, within five
 22 (5) days, notify the sheriff with whom the offender designated as a violent sexual
 23 predator last registered.

24 (iii) The sheriff shall verify the address of the offender by visiting the offender's
 25 residence once every six (6) months or, if the offender fails to comply with the
 26 provisions of paragraph (a)(ii) of this subsection, at any reasonable time to verify
 27 the address provided at registration.

28 (2) ~~All other sexual offenders.~~ The address or physical residence of any sex offender
 29 not designated as a violent sexual predator shall be verified by the department between
 30 registrations.

31 (a) The procedure for verification shall be as follows:

32 (i) The department shall mail a nonforwardable notice of address verification
 33 every four (4) months between annual registrations.

34 (ii) Each offender shall complete, sign and return the notice of address verification
 35 form to the department within seven (7) days of the mailing date of the notice.
 36 If the notice of address verification is returned as not delivered, the department
 37 shall notify the sheriff within five (5) days and the sheriff shall visit the residence
 38 of the registered offender at any reasonable time to verify the address provided at
 39 registration.

40 (3) Any individual designated as a violent sexual predator shall be monitored with
 41 electronic monitoring technology for the duration of the individual's probation or parole period
 42 as set forth in section 20-219(2), Idaho Code. Any person who, without authority, intentionally
 43 alters, tampers with, damages or destroys any electronic monitoring equipment required to be
 44 worn or used by a violent sexual predator shall be guilty of a felony.