

IN THE SENATE

SENATE BILL NO. 1034

BY SCHROEDER

AN ACT

1 RELATING TO MANDATORY MINIMUM SENTENCING; AMENDING SECTION
 2 18-1508, IDAHO CODE, TO PROVIDE AN EXCEPTION RELATING TO THE
 3 TERM OF IMPRISONMENT FOR CERTAIN SEX OFFENDERS AND TO MAKE A
 4 TECHNICAL CORRECTION; AND AMENDING SECTION 19-2520G, IDAHO CODE,
 5 TO REVISE PROVISIONS RELATING TO THE SENTENCING OF CERTAIN SEX
 6 OFFENDERS AND TO PROVIDE MANDATORY MINIMUM SENTENCING FOR
 7 CERTAIN OFFENDERS.
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9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 18-1508, Idaho Code, be, and the same is hereby amended to
 11 read as follows:

12 18-1508. LEWD CONDUCT WITH MINOR CHILD UNDER SIXTEEN. Any person
 13 who shall commit any lewd or lascivious act or acts upon or with the body or any part
 14 or member thereof of a minor child under the age of sixteen (16) years, including but not
 15 limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact,
 16 manual-anal contact, or manual-genital contact, whether between persons of the same or
 17 opposite sex, or who shall involve such minor child in any act of bestiality or ~~sado-masochism~~
 18 sadomasochism as defined in section 18-1507, Idaho Code, when any of such acts are done
 19 with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of
 20 such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned
 21 in the state prison for a term of not more than life, unless the provisions of section 19-2520G,
 22 Idaho Code, apply, then for a term of confinement as provided in section 19-2520G, Idaho
 23 Code.

24 SECTION 2. That Section 19-2520G, Idaho Code, be, and the same is hereby amended
 25 to read as follows:

26 19-2520G. MANDATORY MINIMUM SENTENCING. (1) Pursuant to section 13,
 27 article V of the Idaho constitution, the legislature intends to provide mandatory minimum
 28 sentences for certain first time offenders who have been found guilty of or pleaded guilty
 29 to child sexual abuse and for repeat offenders who have previously been found guilty of
 30 or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the
 31 sexual exploitation of children constitutes a wrongful invasion of a child and results in social,
 32 developmental and emotional injury to the child. It is the policy of the legislature to protect
 33 children from the physical and psychological damage caused by their being used in sexual
 34 conduct. In order to protect children from becoming victims of this type of conduct by
 35 perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in
 36 subsections (2), (3), (4) and (5) of this section. By enacting mandatory minimum sentences,

1 the legislature does not seek to limit the court's power to impose in any case a longer sentence
2 as provided by law.

3 (2) Any person who is eighteen (18) years of age or older who is found guilty of or
4 pleads guilty to violating the provisions of section 18-1508, Idaho Code, on or after July 1,
5 2009, in which the victim was less than twelve (12) years of age, and the person does not
6 otherwise fall under the provisions of subsection (3) of this section, shall be sentenced to a
7 mandatory minimum term of confinement to the custody of the state board of correction for
8 a period of not less than thirty (30) years and not exceeding life imprisonment, followed by
9 probation or parole for the remainder of the person's natural life.

10 (3) Any person who is eighteen (18) years of age or older who is found guilty of or
11 pleads guilty to violating the provisions of section 18-1508, Idaho Code, in which the victim
12 was less than twelve (12) years of age, shall be sentenced to a mandatory minimum term of
13 confinement to the custody of the state board of correction for a period of not less than life, if
14 it is found by the trier of fact that previous to the commission of such crime the defendant has
15 been found guilty of or has pleaded guilty to a violation of a crime or an offense committed
16 in this state or another state which, if committed in this state, would violate the provisions of
17 section 18-1508, Idaho Code, and the defendant was eighteen (18) years of age or older and the
18 victim was less than twelve (12) years of age at the time of committing such crime or offense.

19 (4) Any person who is found guilty of or pleads guilty to any offense requiring sex
20 offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy
21 to commit such a crime, and does not otherwise fall under the provisions of subsection (2)
22 or (3) of this section, shall be sentenced to a mandatory minimum term of confinement to the
23 custody of the state board of correction for a period of not less than fifteen (15) years, if it is
24 found by the trier of fact that previous to the commission of such crime the defendant has been
25 found guilty of or has pleaded guilty to a violation of any crime or an offense committed in this
26 state or another state which, if committed in this state, would require the person to register as a
27 sexual offender as set forth in section 18-8304, Idaho Code.

28 (35) Any person who is found guilty of or pleads guilty to any offense requiring sex
29 offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy
30 to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to
31 the custody of the state board of correction for a period of not less than life, if it is found
32 by the trier of fact that previous to the commission of such crime the defendant has been and
33 is designated a violent sexual predator as set forth in section 18-8314, Idaho Code, or the
34 equivalent under the laws of another state at the time of committing such offense.

35 (46) The mandatory minimum term provided in this section shall be imposed where the
36 aggravating factor is separately charged in the information or indictment and admitted by the
37 accused or found to be true by the trier of fact at a trial of the substantive crime. A court shall
38 not have the power to suspend, withhold, retain jurisdiction, or commute a mandatory minimum
39 sentence imposed pursuant to this section. Any sentence imposed under the provisions of this
40 section shall run consecutive to any other sentence imposed by the court.