

IN THE SENATE

SENATE BILL NO. 1060

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO PROSTITUTION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 18-5610, IDAHO CODE, TO ESTABLISH A FELONY FOR
3 UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITUTION AND TO
4 PROVIDE PENALTIES; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE
5 ADDITION OF A NEW SECTION 18-5612, IDAHO CODE, TO PROVIDE FOR PROPERTY
6 SUBJECT TO CRIMINAL FORFEITURE; AND AMENDING SECTION 18-8304, IDAHO
7 CODE, TO PROVIDE FOR A CODE REFERENCE.
8

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

10 SECTION 1. That Chapter 56, Title 18, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 18-5610, Idaho Code, and to read as follows:

13 18-5610. UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITU-
14 TION -- PENALTIES. (1) Every person who exchanges or offers to exchange any-
15 thing of value for sexual conduct or sexual contact with a person under the
16 age of eighteen (18) years shall be guilty of a felony punishable by impris-
17 onment in the state penitentiary for a period of not less than two (2) years,
18 which may be extended to life imprisonment, or by a fine not exceeding fifty
19 thousand dollars (\$50,000), or by both such imprisonment and fine.

20 (2) As used in this section:

21 (a) "Sexual conduct" means sexual intercourse or deviate sexual inter-
22 course.

23 (b) "Sexual contact" means any touching of the sexual organs or other
24 intimate parts of a person not married to the actor for the purpose of
25 arousing or gratifying the sexual desire of either party.

26 (c) "Anything of value" includes, but is not limited to, a fee, food,
27 shelter, clothing, medical care or membership in a criminal gang as de-
28 fined in section 18-8502, Idaho Code.

29 SECTION 2. That Chapter 56, Title 18, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 18-5612, Idaho Code, and to read as follows:

32 18-5612. PROPERTY SUBJECT TO CRIMINAL FORFEITURE. (1) Any person who
33 is found guilty of, who enters a plea of guilty or who is convicted of a vi-
34 olation of section 18-5602 or 18-5609, Idaho Code, no matter the form of the
35 judgment or order withholding judgment, shall forfeit to the state of Idaho:

36 (a) Any property constituting, or derived from, any proceeds the person
37 obtained directly or indirectly as the result of such violation; and

38 (b) Any of the person's property used, or intended to be used, in any
39 manner or part to commit or to facilitate the commission of such viola-
40 tion.

1 (2) The court, in imposing sentence on such person as described in sub-
 2 section (1) of this section, shall order, in addition to any other sentence
 3 imposed, that the person forfeit to the state of Idaho all property described
 4 in this section. The provisions of this chapter shall not be construed in
 5 any manner to prevent the state of Idaho, the attorney general or the appro-
 6 priate prosecuting attorney from requesting restitution pursuant to section
 7 19-5304, Idaho Code. The issue of criminal forfeiture shall be for the court
 8 alone, without submission to a jury, as a part of the sentencing procedure
 9 within the criminal action.

10 SECTION 3. That Section 18-8304, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-
 13 visions of this chapter shall apply to any person who:

14 (a) On or after July 1, 1993, is convicted of the crime, or an at-
 15 tempt, a solicitation, or a conspiracy to commit a crime provided for
 16 in section 18-909 (assault with intent to commit rape, infamous crime
 17 against nature, or lewd and lascivious conduct with a minor, but exclud-
 18 ing mayhem, murder or robbery), 18-911 (battery with intent to commit
 19 rape, infamous crime against nature, or lewd and lascivious conduct
 20 with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual
 21 exploitation by a medical care provider), 18-1505B (sexual abuse and
 22 exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child
 23 under sixteen years of age), 18-1506A (ritualized abuse of a child),
 24 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with
 25 a minor child), 18-1508A (sexual battery of a minor child sixteen or
 26 seventeen years of age), 18-1509A (enticing a child over the inter-
 27 net), 18-4003(d) (murder committed in perpetration of rape), 18-4116
 28 (indecent exposure, but excluding a misdemeanor conviction), 18-4502
 29 (first degree kidnapping committed for the purpose of rape, committing
 30 the infamous crime against nature or for committing any lewd and las-
 31 civious act upon any child under the age of sixteen, or for purposes of
 32 sexual gratification or arousal), 18-4503 (second degree kidnapping
 33 where the victim is an unrelated minor child), 18-5605 (detention for
 34 prostitution), 18-5609 (inducing person under eighteen years of age
 35 into prostitution), 18-5610 (utilizing a person under eighteen years of
 36 age for prostitution), 18-5611 (inducing person under eighteen years of
 37 age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1)
 38 where the defendant is eighteen years of age), 18-6108 (male rape, but
 39 excluding 18-6108(1) where the defendant is eighteen years of age),
 40 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605
 41 (crime against nature), 18-6608 (forcible sexual penetration by use of
 42 a foreign object), 18-6609 (video voyeurism where the victim is a minor
 43 or upon a second or subsequent conviction), 18-7804 (if the racketeer-
 44 ing act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex
 45 trafficking).

46 (b) On or after July 1, 1993, has been convicted of any crime, an at-
 47 tempt, a solicitation or a conspiracy to commit a crime in another ju-
 48 risdiction or who has a foreign conviction that is substantially equiv-
 49 alent to the offenses listed in subsection (1) (a) of this section and

1 enters this state to establish residence or for employment purposes or
2 to attend, on a full-time or part-time basis, any public or private ed-
3 ucational institution including any secondary school, trade or profes-
4 sional institution or institution of higher education.

5 (c) Has been convicted of any crime, an attempt, a solicitation or a
6 conspiracy to commit a crime in another jurisdiction, including mili-
7 tary courts, that is substantially equivalent to the offenses listed in
8 subsection (1) (a) of this section and was required to register as a sex
9 offender in any other state or jurisdiction when he established resi-
10 dency in Idaho.

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

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

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

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

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