

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 164

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE SEXUAL AND VIOLENT OFFENDER REGISTRY; AMENDING THE HEADING
2 FOR CHAPTER 83, TITLE 18, IDAHO CODE, TO PROVIDE FOR VIOLENT OFFENDERS;
3 AMENDING SECTIONS 18-8301 AND 18-8302, IDAHO CODE, TO PROVIDE FOR VIO-
4 LENT OFFENDERS; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE DEFINI-
5 TIONS; AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE FOR CERTAIN
6 VIOLENT OFFENSES AND CONDITIONS THAT REQUIRE REGISTRATION, TO PROVIDE
7 CONDITIONS FOR REGISTRATION FOR JUVENILE VIOLENT OFFENDERS AND TO MAKE
8 A TECHNICAL CORRECTION; AMENDING SECTION 18-8305, IDAHO CODE, TO PRO-
9 VIDE FOR VIOLENT OFFENDERS; AMENDING SECTION 18-8306, IDAHO CODE, TO
10 PROVIDE FOR VIOLENT OFFENDERS; AMENDING SECTION 18-8307, IDAHO CODE, TO
11 PROVIDE FOR VIOLENT OFFENDERS AND TO PROVIDE A CORRECT CODE REFERENCE;
12 AMENDING SECTION 18-8309, IDAHO CODE, TO PROVIDE FOR VIOLENT OFFEND-
13 ERS; AMENDING SECTION 18-8310, IDAHO CODE, TO PROVIDE FOR VIOLENT OF-
14 FENDERS AND TO CLARIFY THAT CERTAIN TREATMENT IS ONLY FOR SEXUAL OFFEND-
15 ERS; AMENDING SECTION 18-8312, IDAHO CODE, TO PROVIDE FOR VIOLENT OF-
16 FENDERS AND TO RENAME THE BOARD; AMENDING SECTION 18-8314, IDAHO CODE,
17 TO PROVIDE FOR VIOLENT OFFENDERS; AMENDING SECTION 18-8316, IDAHO CODE,
18 TO CLARIFY THAT A CERTAIN EVALUATION IS ONLY FOR SEXUAL OFFENDERS, TO
19 PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE FOR VIOLENT OFFENDERS;
20 AMENDING SECTIONS 18-8323, 18-8324 AND 18-8325, IDAHO CODE, TO PROVIDE
21 FOR VIOLENT OFFENDERS; AMENDING SECTION 18-8327, IDAHO CODE, TO CLARIFY
22 LANGUAGE RELATING TO REGISTRATION OF SEXUAL OFFENDERS; AMENDING SEC-
23 TION 18-8328, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO ADULT AND JU-
24 VENILE SEXUAL OFFENDERS; AMENDING SECTION 18-8329, IDAHO CODE, TO CLAR-
25 IFY LANGUAGE RELATING TO REGISTRATION OF SEXUAL OFFENDERS AND TO MAKE
26 TECHNICAL CORRECTIONS; AMENDING SECTION 18-8331, IDAHO CODE, TO CLAR-
27 IFY THAT CERTAIN PROHIBITIONS ARE ONLY FOR SEXUAL OFFENDERS; AMENDING
28 SECTION 18-8403, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND
29 AMENDING SECTION 7-805, IDAHO CODE, TO PROVIDE FOR VIOLENT OFFENDERS.
30

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

32 SECTION 1. That the Heading for Chapter 83, Title 18, Idaho Code, be,
33 and the same is hereby amended to read as follows:

34 CHAPTER 83
35 SEXUAL AND VIOLENT OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY
36 RIGHT-TO-KNOW ACT

37 SECTION 2. That Section 18-8301, Idaho Code, be, and the same is hereby
38 amended to read as follows:

1 18-8301. SHORT TITLE. This chapter shall be known and may be cited as
2 the "Sexual and Violent Offender Registration Notification and Community
3 Right-to-Know Act."

4 SECTION 3. That Section 18-8302, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 18-8302. FINDINGS. The legislature finds that sexual and violent of-
7 fenders present a danger and that efforts of law enforcement agencies to
8 protect their communities, conduct investigations and quickly apprehend
9 offenders who commit sexual and violent offenses are impaired by the lack of
10 current information available about individuals who have been convicted of
11 sexual and violent offenses who live within their jurisdiction. The leg-
12 islature further finds that providing public access to certain information
13 about convicted sexual and violent offenders assists parents in the protec-
14 tion of their children. Such access further provides a means for organiza-
15 tions that work with youth or other vulnerable populations to prevent sexual
16 and violent offenders from threatening those served by the organizations.
17 Finally, public access assists the community in being observant of convicted
18 sexual and violent offenders in order to prevent them from recommitting sex-
19 ual and violent crimes. Therefore, this state's policy is to assist efforts
20 of local law enforcement agencies to protect communities by requiring sexual
21 and violent offenders to register with local law enforcement agencies and to
22 make certain information about sexual and violent offenders available to the
23 public as provided in this chapter.

24 SECTION 4. That Section 18-8303, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 18-8303. DEFINITIONS. As used in this chapter:

27 (1) "Aggravated offense" means any of the following crimes: 18-1506A
28 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder
29 committed in the perpetration of rape); 18-4502 (first-degree kidnapping
30 committed for the purpose of rape, committing an infamous crime against na-
31 ture, committing any lewd and lascivious act upon any child under the age of
32 sixteen years or for purposes of sexual gratification or arousal); 18-4503
33 (second degree kidnapping where the victim is an unrelated minor child and
34 the kidnapping is committed for the purpose of rape, committing an infamous
35 crime against nature, committing any lewd and lascivious act upon any child
36 under the age of sixteen years or for purposes of sexual gratification or
37 arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim
38 is at least twelve years of age or the defendant is eighteen years of age);
39 18-6108 (male rape, but excluding section 18-6108(1) where the victim is at
40 least twelve years of age or the defendant is eighteen years of age); 18-6608
41 (forcible sexual penetration by use of a foreign object); 18-8602(1) (sex
42 trafficking); and any other offense set forth in section 18-8304, Idaho
43 Code, if at the time of the commission of the offense the victim was below the
44 age of thirteen years or an offense that is substantially similar to any of
45 the foregoing offenses under the laws of another jurisdiction or military
46 court or the court of another country.

1 (2) "Board" means the sexual and violent offender management board de-
2 scribed in section 18-8312, Idaho Code.

3 (3) "Central registry" means the registry of convicted sexual and vi-
4 olent offenders maintained by the Idaho state police pursuant to this chap-
5 ter.

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

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

15 (6) "Employed" means full-time or part-time employment exceeding ten
16 (10) consecutive working days or for an aggregate period exceeding thirty
17 (30) days in any calendar year, or any employment which involves counseling,
18 coaching, teaching, supervising or working with minors in any way regardless
19 of the period of employment, whether such employment is financially compen-
20 sated, volunteered or performed for the purpose of any government or educa-
21 tion benefit.

22 (7) "Foreign conviction" means a conviction under the laws of Canada,
23 Great Britain, Australia or New Zealand or a conviction under the laws of any
24 foreign country deemed by the U.S. department of state, in its country re-
25 ports on human rights practices, to have been obtained with sufficient safe-
26 guards for fundamental fairness and due process.

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

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

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

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

42 (a) "Sex offender" or "sexual offender" means an individual convicted
43 of an offense listed and described in section 18-8304(1)(a), Idaho
44 Code, or a substantially similar offense under the laws of another ju-
45 risdiction or military court or the court of another country deemed by
46 the U.S. department of state, in its country reports on human rights
47 practices, to have sufficient safeguards for fundamental fairness and
48 due process.

49 (b) "Violent offender" means an individual convicted of an offense
50 listed and described in section 18-8304(1)(b), Idaho Code, or a sub-

1 stantially similar offense under the laws of another jurisdiction or
 2 military court or the court of another country deemed by the U.S. de-
 3 partment of state, in its country reports on human rights practices, to
 4 have sufficient safeguards for fundamental fairness and due process.

5 (12) "Offense" means a sexual or violent offense listed in section
 6 18-8304, Idaho Code.

7 (13) "Psychosexual evaluation" means an evaluation which specifically
 8 addresses sexual development, sexual deviancy, sexual history and risk of
 9 reoffense as part of a comprehensive evaluation of an offender.

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

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

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

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

20 SECTION 5. That Section 18-8304, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-
 23 visions of this chapter shall apply to any person who:

24 (a) On or after July 1, 1993, is convicted of the crime, or an at-
 25 tempt, a solicitation, or a conspiracy to commit a crime provided for
 26 in section 18-909 (assault with intent to commit rape, infamous crime
 27 against nature, or lewd and lascivious conduct with a minor, but exclud-
 28 ing mayhem, murder or robbery), 18-911 (battery with intent to commit
 29 rape, infamous crime against nature, or lewd and lascivious conduct
 30 with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual
 31 exploitation by a medical care provider), 18-1505B (sexual abuse and
 32 exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child
 33 under sixteen years of age), 18-1506A (ritualized abuse of a child),
 34 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with
 35 a minor child), 18-1508A (sexual battery of a minor child sixteen or
 36 seventeen years of age), 18-1509A (enticing a child over the inter-
 37 net), 18-4003(d) (murder committed in perpetration of rape), 18-4116
 38 (indecent exposure, but excluding a misdemeanor conviction), 18-4502
 39 (first degree kidnapping committed for the purpose of rape, committing
 40 the infamous crime against nature or for committing any lewd and las-
 41 civious act upon any child under the age of sixteen, or for purposes of
 42 sexual gratification or arousal), 18-4503 (second degree kidnapping
 43 where the victim is an unrelated minor child), 18-5605 (detention for
 44 prostitution), 18-5609 (inducing person under eighteen years of age
 45 into prostitution), 18-5610 (utilizing a person under eighteen years of
 46 age for prostitution), 18-5611 (inducing person under eighteen years of
 47 age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1)
 48 where the defendant is eighteen years of age), 18-6108 (male rape, but
 49 excluding 18-6108(1) where the defendant is eighteen years of age),

1 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605
2 (crime against nature), 18-6608 (forcible sexual penetration by use of
3 a foreign object), 18-6609 (video voyeurism where the victim is a minor
4 or upon a second or subsequent conviction), 18-7804 (if the racketeer-
5 ing act involves kidnapping of a minor) or 18-8602(1), ~~Idaho Code,~~ (sex
6 trafficking), Idaho Code.

7 (b) On or after July 1, 2015, is convicted of the crime, or an attempt,
8 a solicitation, or a conspiracy to commit a crime provided for in sec-
9 tion 18-912 (battery with intent to commit a serious felony), 18-918
10 (domestic violence when conviction is a felony), 18-923 (attempted
11 strangulation), 18-4003 (first or second degree murder when not commit-
12 ted in perpetration of rape), 18-4015 (assault with intent to murder),
13 18-4502 (first degree kidnapping committed for the purpose of obtaining
14 money, property or any other thing of value for the return or disposi-
15 tion of such person kidnapped), 18-4503 (second degree kidnapping where
16 the victim is an adult or related minor child) or 18-8602(2) (human
17 trafficking), Idaho Code.

18 (c) On or after July 1, 1993, has been convicted of any crime, an at-
19 tempt, a solicitation or a conspiracy to commit a crime in another ju-
20 risdiction or who has a foreign conviction that is substantially equiv-
21 alent to the offenses listed in subsection (1) (a) of this section and
22 enters this state to establish residence or for employment purposes or
23 to attend, on a full-time or part-time basis, any public or private ed-
24 ucational institution including any secondary school, trade or profes-
25 sional institution or institution of higher education.

26 (d) On or after July 1, 2015, has been convicted of any crime, an at-
27 tempt, a solicitation or a conspiracy to commit a crime in another ju-
28 risdiction or who has a foreign conviction that is substantially equiv-
29 alent to the offenses listed in subsection (1) (b) of this section and
30 enters this state to establish residence or for employment purposes or
31 to attend, on a full-time or part-time basis, any public or private ed-
32 ucational institution including any secondary school, trade or profes-
33 sional institution or institution of higher education.

34 (ee) Has been convicted of any crime, an attempt, a solicitation or a
35 conspiracy to commit a crime in another jurisdiction, including mili-
36 tary courts, that is substantially equivalent to the offenses listed in
37 subsection (1) (a) or (b) of this section and was required to register
38 as a sex offender in any other state or jurisdiction when he established
39 residency in Idaho.

40 (df) Pleads guilty to or has been found guilty of a crime covered in
41 subsection (1) (a) of this ~~chapter~~ section prior to July 1, 1993, and the
42 person, as a result of the offense, is incarcerated in a county jail fa-
43 ility or a penal facility or is under probation or parole supervision,
44 on or after July 1, 1993.

45 (eg) Is a nonresident regularly employed or working in Idaho or is a
46 student in the state of Idaho and was convicted, found guilty or pleaded
47 guilty to a crime covered by this chapter and, as a result of such con-
48 vicition, finding or plea, is required to register in his state of resi-
49 dence.

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

6 (3) A juvenile violent offender shall comply with the registration pro-
7 visions of this chapter only as ordered by a court following conviction.

8 (4) A conviction for purposes of this chapter means that the person has
9 pled guilty or has been found guilty, notwithstanding the form of the judg-
10 ment or withheld judgment.

11 (45) The department shall have authority to promulgate rules to imple-
12 ment the provisions of this chapter.

13 SECTION 6. That Section 18-8305, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 18-8305. CENTRAL REGISTRY -- NOTICE TO AGENCIES. (1) The department
16 shall establish and maintain a central sexual and violent offender registry
17 separate from other records maintained by the department. The information
18 contained in the registry shall be in digital form or include links or iden-
19 tification numbers that provide access to the information in other databases
20 in which it is included in digital form. The registry shall include, but is
21 not limited to, the following information:

22 (a) Name and all aliases that the offender has used or under which the
23 offender has been known including the offender's primary or given name,
24 nicknames and pseudonyms generally, regardless of the context in which
25 they are used, any designations or monikers used for self-identifica-
26 tion in internet communications or postings and traditional names given
27 by family or clan pursuant to ethnic or tribal tradition;

28 (b) A complete physical description of the person including any identi-
29 fying marks, such as scars or tattoos, the offender's date of birth in-
30 cluding any date the offender uses as his or her purported date of birth
31 and the offender's social security number including any number the of-
32 fender uses as his or her purported social security number;

33 (c) The criminal history of the offender including the jurisdiction of
34 all arrests and convictions, the name under which the offender was con-
35 victed of each offense, the status of parole, probation or supervised
36 release; registration status; and the existence of any outstanding ar-
37 rest warrants for the offender;

38 (d) The text of the provision of law defining the criminal offense for
39 which the sexual or violent offender is registered as formulated at the
40 time the offender was convicted;

41 (e) The name and location of each hospital, jail or penal institution
42 to which the offender was committed for each offense covered under this
43 chapter;

44 (f) The address or physical description of each residence at which the
45 offender resides;

46 (g) The name and address of any place where the offender is a student or
47 will be a student unless the offender is only participating in courses
48 remotely through the mail or the internet;

1 (h) The license plate number and a description of any vehicle owned or
2 regularly operated by the sexual or violent offender including any ve-
3 hicle the offender drives, either for personal use or in the course of
4 employment, regardless of to whom the vehicle is registered. The term
5 "vehicle" includes watercraft and aircraft. To the extent the vehicle
6 does not have a license plate, a registration number or other identify-
7 ing information shall be provided;

8 (i) Any e-mail or instant messaging address used by the offender;

9 (j) The offender's telephone numbers including, but not limited to,
10 fixed location telephone numbers, voice over internet protocol numbers
11 and cell phone numbers;

12 (k) The name and address of any place where the offender is employed
13 or will be employed and the name and address of any place where the of-
14 fender works as a volunteer or otherwise works without remuneration or
15 if the offender does not have a fixed place of employment, a descrip-
16 tion of normal travel routes or the general areas in which the offender
17 works;

18 (l) Information regarding any professional license maintained by the
19 offender that authorizes the offender to engage in an occupation or
20 carry out a trade or business;

21 (m) Information about the offender's passport, if any, and if the of-
22 fender is an alien, information about documents establishing the of-
23 fender's immigration status including document type and number infor-
24 mation for such documents and a digitized copy of the documents;

25 (n) A set of fingerprints and palm prints of the offender;

26 (o) A current photograph of the offender; and

27 (p) A photocopy of a valid driver's license or identification card is-
28 sued to the offender, if any.

29 (2) The department shall adopt rules relating to providing notice
30 of address changes to law enforcement agencies, developing forms, operat-
31 ing the central registry, reviewing and correcting records, and expunging
32 records of persons who are deceased, whose convictions have been reversed or
33 who have been pardoned, and those for whom an order of expungement or relief
34 from registration has been entered pursuant to section 18-8310, Idaho Code.

35 (3) The department shall develop and distribute to appropriate agency-
36 es the standardized forms necessary for the administration of the registry
37 and shall provide appropriate agencies with instructions for completing and
38 submitting the forms. The attorney general shall approve the forms and in-
39 structions prior to distribution.

40 (4) The department shall notify the attorney general of the United
41 States and appropriate law enforcement agencies of any failure by an of-
42 fender to comply with the requirements of this chapter and shall revise the
43 registry to reflect the nature of that failure.

44 SECTION 7. That Section 18-8306, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 18-8306. NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION. (1) When
47 a person is sentenced for an offense identified in section 18-8304, Idaho
48 Code, the prosecuting attorney shall seek and the court shall order a desig-
49 nated law enforcement agency to immediately photograph that person and ob-

1 tain fingerprints and palm prints unless the person has been photographed
2 and has provided fingerprints and palm prints previously for the same of-
3 fense. Fingerprints, palm prints and photographs may be taken at the jail
4 or correctional facility to which the person is remanded or sentenced. The
5 fingerprints, palm prints and photographs taken pursuant to this subsection
6 shall be submitted to the department as provided in section 67-3005, Idaho
7 Code.

8 (2) A person convicted of an offense identified in section 18-8304,
9 Idaho Code, and released on probation without a sentence of incarceration
10 in a county jail or correctional facility, including release pursuant to a
11 withheld judgment or release from any mental institution, shall be notified
12 by the sentencing court of the duty to register pursuant to the provisions
13 of this chapter and the offender shall register in accordance with this
14 chapter no later than two (2) working days after sentence is imposed or judg-
15 ment is withheld. The written notification shall be a form provided by the
16 department and approved by the attorney general and shall be signed by the
17 defendant. The court shall retain one (1) copy, provide one (1) copy to the
18 offender, and submit one (1) copy to the central registry within three (3)
19 working days of release.

20 (3) With respect to an offender convicted of a sexual or violent offense
21 identified in section 18-8304, Idaho Code, and sentenced to a period of im-
22 mediate incarceration in a jail or correctional facility and subsequently
23 released, placed on probation, or paroled, the department of correction or
24 jail shall provide, prior to release from confinement, written notification
25 of the duty to register and the offender shall register prior to his or her
26 release. The written notification shall be a form provided by the department
27 and approved by the attorney general and shall be signed by the offender. The
28 department of correction or jail shall retain one (1) copy, provide one (1)
29 copy to the offender, and submit one (1) copy to the central registry within
30 three (3) working days of release.

31 (4) The sheriff of each county shall provide written notification, on
32 a form provided by the Idaho transportation department and approved by the
33 attorney general, of the registration requirements of this chapter to any
34 person who enters this state from another jurisdiction and makes an appli-
35 cation for an identification card or a license to operate a motor vehicle in
36 this state. The written notice shall be signed by the person and one (1) copy
37 shall be retained by the sheriff's office and one (1) copy shall be provided
38 to the person.

39 (5) The notification form provided by the department and approved by
40 the attorney general shall:

41 (a) Explain the duty to register, the procedure for registration and
42 penalty for failure to comply with registration requirements;

43 (b) Inform the offender of the requirement to provide notice of any
44 change of address within Idaho or to another jurisdiction within two (2)
45 working days of such change and of the immediate notification require-
46 ments set forth in subsections (2) and (3) of section 18-8309, Idaho
47 Code;

48 (c) Inform the offender of the requirement to register in a new juris-
49 diction within two (2) working days of changing residence to that juris-

1 diction, becoming employed in that jurisdiction or becoming a student
2 in that jurisdiction; and

3 (d) Obtain from the offender and agency or court, the information re-
4 quired for initial registration in the central registry as set forth
5 in section 18-8305, Idaho Code, and any other information required by
6 rules promulgated by the department.

7 (6) The official conducting the notice and initial registration shall
8 ensure that the notification form is complete, that the offender has read
9 and signed the form, and that a copy is forwarded to the central repository
10 within three (3) working days of the registration.

11 (7) No person subject to registration shall willfully furnish false or
12 misleading information when complying with registration and notification
13 requirements of this chapter.

14 (8) An offender required to register under this chapter shall initially
15 register in the jurisdiction in which he or she was convicted as well as any
16 other jurisdiction requiring registration under this chapter. If the juris-
17 diction in which the offender is initially required to register is Idaho, the
18 offender shall register in the county in which he or she primarily intends
19 to reside. The county of initial registration shall then notify the depart-
20 ment, which shall notify any other county or jurisdiction in which the of-
21 fender is required to register.

22 SECTION 8. That Section 18-8307, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 18-8307. REGISTRATION. (1) Registration shall consist of a form pro-
25 vided by the department and approved by the attorney general, which shall be
26 signed by the offender and shall require the information set forth in subsec-
27 tion (1) of section 18-8305, Idaho Code.

28 (2) At the time of registration, the sheriff shall obtain a photograph
29 and fingerprints, in a manner approved by the department, and require the of-
30 fender to provide full palm print impressions of each hand. A violent sexual
31 predator shall pay a fee of fifty dollars (\$50.00) to the sheriff at the time
32 of the first calendar quarter registration and ten dollars (\$10.00) per reg-
33 istration every subsequent quarter in the same calendar year. All other of-
34 fenders shall pay an annual fee of eighty dollars (\$80.00) to the sheriff for
35 registration. The sheriff may waive the registration fee if the violent sex-
36 ual predator or other offender demonstrates indigency. The fees collected
37 under this section shall be used by the sheriff to defray the costs of vio-
38 lent sexual predator and other sexual and violent offender registration and
39 verification and for electronic notification, law enforcement information
40 sharing and tracking. Irrespective of the classification or designation of
41 the offender or predator, each county shall cause forty dollars (\$40.00) per
42 offender per year of the fees collected under this section to be used for de-
43 velopment, continuous use and maintenance of a statewide electronic notifi-
44 cation, information sharing and tracking system as implemented by the Idaho
45 sheriffs' association.

46 (3) The sheriff shall forward the completed and signed form, pho-
47 tograph, fingerprints and palm prints to the department within three (3)
48 working days of the registration.

1 (a) The official conducting the registration shall ensure that the no-
2 tification form is complete and that the offender has read and signed
3 the form.

4 (b) No person subject to registration shall furnish false or misleading
5 information when complying with registration and notification require-
6 ments of this chapter.

7 (4) (a) Within two (2) working days of coming into any county to es-
8 tablish residence, an offender shall register with the sheriff of the
9 county. The offender thereafter shall register annually, unless the
10 offender is designated as a violent sexual predator, in which case the
11 offender shall register with the sheriff every three (3) months as pro-
12 vided in this section. If the offender intends to reside in another
13 jurisdiction, the offender shall register in the other jurisdiction
14 within two (2) days of moving to that jurisdiction and will not be re-
15 moved from the sexual and violent offender registry in Idaho until
16 registration in another jurisdiction is complete.

17 (b) A nonresident required to register pursuant to section
18 18-8304(1) (~~b~~c) or (d), Idaho Code, shall register with the sheriff of
19 the county where employed or enrolled as a student within two (2) work-
20 ing days of the commencement of employment or enrollment as a student
21 in an educational institution, provided that nonresidents employed in
22 counseling, coaching, teaching, supervising or working with minors in
23 any way, regardless of the period of employment, must register prior to
24 the commencement of such employment.

25 (5) Registration shall be conducted as follows:

26 (a) For violent sexual predators the department shall mail a nonfor-
27 wardable notice of quarterly registration to the offender's last re-
28 ported address within three (3) months following the last registration;

29 (b) For all other sexual and violent offenders the department shall
30 mail an annual, nonforwardable notice of registration to the offender's
31 last reported address;

32 (c) Within five (5) days of the mailing date of the notice, the offender
33 shall appear in person at the office of the sheriff in the county in
34 which the offender is required to register for the purpose of completing
35 the registration process;

36 (d) If the notice is returned to the department as not delivered, the
37 department shall inform the sheriff with whom the offender last regis-
38 tered of the returned notice.

39 (6) All written notifications of duty to register as provided herein
40 shall include a warning that it is a felony as provided in section 18-8327,
41 Idaho Code, for an sexual offender to accept employment in any day care cen-
42 ter, group day care facility or family day care home, as those terms are de-
43 fined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the
44 premises of a day care center, group day care facility or family day care home
45 while children are present, other than to drop off or pick up the offender's
46 child or children.

47 (7) An offender shall keep the registration current for the full regis-
48 tration period. The full registration period is for life; however, offend-
49 ers may petition for release from the full registration period as set forth
50 in section 18-8310, Idaho Code.

1 SECTION 9. That Section 18-8309, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-8309. DUTY TO UPDATE REGISTRATION INFORMATION. (1) If an offender
4 subject to registration changes his or her name, street address or actual
5 address, employment or student status, the offender shall appear in person
6 within two (2) working days after the change at the office of the sheriff of
7 the county where the offender is required to register and notify the sheriff
8 of all changes in the information required for that offender in the sexual
9 and violent offender registry. Provided however, nonresidents employed in
10 this jurisdiction in counseling, coaching, teaching, supervising or working
11 with minors in any way, regardless of the period of employment, shall reg-
12 ister before the commencement of such employment. Within three (3) working
13 days after receipt of the notice, the sheriff shall notify the department of
14 the changed information and the department shall notify all other counties
15 and jurisdictions in which the offender is required to register. An offender
16 satisfies the notification requirements set forth in this subsection if he
17 or she appears in another jurisdiction in which registration is required and
18 notifies that jurisdiction of the changed information.

19 (2) An offender required to register shall immediately notify the de-
20 partment of any lodging lasting seven (7) days or more, regardless of whether
21 the lodging would be considered a residence as defined in section 18-8303,
22 Idaho Code. The department shall immediately notify the jurisdiction in
23 which the lodging will occur if different than the jurisdiction in which the
24 offender is required to register.

25 (3) An offender required to register shall immediately notify the de-
26 partment of any changes in his or her vehicle information and of any changes
27 in designations used for self-identification or routing in internet commu-
28 nications or postings or telephonic communications.

29 (4) If this jurisdiction is notified that an offender who is required to
30 register is expected to commence residence, employment or school attendance
31 in this jurisdiction, but the offender fails to appear for registration as
32 required, this jurisdiction shall inform the jurisdiction that provided the
33 notification that the offender failed to appear and shall follow the proce-
34 dures for cases involving possible violations of registration requirements
35 set forth in the rules of procedures promulgated by the department.

36 (5) An offender required to register in Idaho shall notify the county in
37 which he or she is registered of his or her intent to commence residence, em-
38 ployment or school attendance outside of the United States. Once notified,
39 the county shall notify the central registry, which shall notify all other
40 counties and jurisdictions in which the offender is required to register and
41 notify the United States marshals service and update the registry accord-
42 ingly.

43 (6) Upon receipt of information pursuant to this section, the depart-
44 ment shall notify the law enforcement agencies in the counties where the
45 offender resides or will reside, enter information in the central registry
46 and transmit the appropriate information as required pursuant to section
47 18-8324, Idaho Code. Upon receipt of a notice of an offender changing
48 residence to another jurisdiction or entering another jurisdiction for em-

1 ployment purposes or to attend school, the department shall notify those
2 agencies entitled to notification pursuant to section 18-8324, Idaho Code.

3 (7) The department shall notify the attorney general of the United
4 States and appropriate law enforcement agencies of any failure by an of-
5 fender to comply with the requirements of this chapter and revise the
6 registry to reflect the nature of that failure.

7 SECTION 10. That Section 18-8310, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1)
10 Registration under this act is for life; however, any offender, other than a
11 recidivist, an offender who has been convicted of an aggravated offense, or
12 an offender designated as a violent sexual predator, may, after a period of
13 ten (10) years from the date the offender was released from incarceration or
14 placed on parole, supervised release or probation, whichever is greater, pe-
15 tition the district court for a show cause hearing to determine whether the
16 offender shall be exempted from the duty to register as a sexual or violent
17 offender. If the offender was convicted in Idaho, the offender shall file
18 his or her petition in the county in which he or she was convicted. If the of-
19 fender was convicted in a jurisdiction other than Idaho, then the offender
20 shall file his or her petition in the county in which he or she resides. In
21 the petition the petitioner shall:

22 (a) Provide clear and convincing evidence that the petitioner has com-
23 pleted any periods of supervised release, probation or parole without
24 revocation;

25 (b) Provide an affidavit indicating that the petitioner does not have
26 a criminal charge pending nor is the petitioner knowingly under crimi-
27 nal investigation for any violent crime or crime identified in section
28 18-8304, Idaho Code;

29 (c) Provide proof of service of such petition and supporting documents
30 upon the county prosecuting attorney for the county in which the appli-
31 cation is made and upon the central registry;

32 (d) Provide a certified copy of the judgment of conviction which caused
33 the petitioner to report as a sexual or violent offender;

34 (e) Provide clear and convincing evidence that the petitioner, if reg-
35 istered as a sexual offender, has successfully completed a sexual of-
36 fender treatment program;

37 (f) Provide an affidavit demonstrating that the petitioner has no
38 felony convictions during the period for which the petitioner has been
39 registered; and

40 (g) Provide an affidavit demonstrating that the petitioner has commit-
41 ted no sexual or violent offenses during the period for which the peti-
42 tioner has been registered.

43 (2) The county prosecuting attorney and the central registry may submit
44 evidence, including by affidavit, rebutting the assertions contained within
45 the offender's petition, affidavits or other documents filed in support of
46 the petition.

47 (3) The district court may grant a hearing if it finds that the petition
48 is sufficient. The court shall provide at least sixty (60) days' prior no-
49 tice of the hearing to the petitioner, the county prosecuting attorney and

1 the central registry. The central registry may appear or participate as a
2 party.

3 (4) The court may exempt the petitioner from the registration require-
4 ment only after a hearing on the petition in open court and only upon proof by
5 clear and convincing evidence and upon written findings of fact and conclu-
6 sions of law by the court that:

7 (a) The petitioner has complied with the requirements set forth in sub-
8 section (1) of this section;

9 (b) The court has reviewed the petitioner's criminal history and has
10 determined that the petitioner is not a recidivist, has not been con-
11 victed of an aggravated offense or has not been designated as a violent
12 sexual predator; and

13 (c) It is highly probable or reasonably certain the petitioner is not a
14 risk to commit a new violation for any violent crime or crime identified
15 in section 18-8304, Idaho Code.

16 (5) Concurrent with the entry of any order exempting the petitioner
17 from the registration requirement, the court may further order that any in-
18 formation regarding the petitioner be expunged from the central registry.

19 SECTION 11. That Section 18-8312, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 18-8312. SEXUAL AND VIOLENT OFFENDER MANAGEMENT BOARD -- APPOINTMENT
22 -- TERMS -- VACANCIES -- CHAIRMAN -- QUORUM -- QUALIFICATIONS OF MEMBERS --
23 COMPENSATION OF MEMBERS. (1) A sexual and violent offender management board
24 is hereby created within the Idaho department of correction. The board
25 shall consist of nine (9) voting members appointed by the governor by and
26 with the advice and consent of the senate. Members shall be eligible for
27 reappointment to the board without limitation. The board shall be charged
28 with the advancement and oversight of sexual and violent offender management
29 policies and practices statewide.

30 (2) The terms of the members shall expire as follows: three (3) members
31 on January 1, 2014; three (3) members on January 1, 2015; and three (3) mem-
32 bers on January 1, 2016. Thereafter, any person appointed a member of the
33 board shall hold office for three (3) years.

34 (3) Vacancies in the membership of the board shall be filled in the same
35 manner in which the original appointments are made. Members appointed to a
36 vacant position shall serve the remainder of the unexpired term.

37 (4) Qualifications of members.

38 (a) One (1) member of the board shall have, by education, experience and
39 training, expertise in the assessment and treatment of adult sexual or
40 violent offenders.

41 (b) One (1) member of the board shall have, by education, experience and
42 training, expertise in the assessment and treatment of juveniles who
43 have been adjudicated for sexual or violent offenses.

44 (c) One (1) member of the board shall have, by education, experience and
45 training, expertise in cultural diversity and behavior of sexual or vi-
46 olent offenders as they relate to assessment and treatment.

47 (d) One (1) member of the board shall be from the Idaho department of
48 correction.

- 1 (e) One (1) member of the board shall be from the Idaho department of
2 juvenile corrections.
- 3 (f) One (1) member of the board shall be an attorney who has experience
4 in the prosecution of sexual and violent offenders through the criminal
5 justice process.
- 6 (g) One (1) member of the board shall be an attorney who has experience
7 in the defense of sexual and violent offenders through the criminal jus-
8 tice process.
- 9 (h) One (1) member of the board shall be from the Idaho sheriffs' asso-
10 ciation.
- 11 (i) One (1) member of the board shall be a representative of the public.
- 12 (5) In addition, there shall be advisory to the board, one (1) nonvoting
13 member representing the judiciary who shall be appointed by the chief jus-
14 tice of the Idaho supreme court. The term of appointment for the judicial
15 member shall be four (4) years.
- 16 (6) The board may create subcommittees to address specific issues.
17 Such subcommittees may include board members as well as invited experts and
18 other stakeholders or participants.
- 19 (7) The board shall elect a chairman from its members.
- 20 (8) A quorum shall exist when a majority of the board is present.
- 21 (9) Members shall be compensated as provided by section 59-509(o),
22 Idaho Code.

23 SECTION 12. That Section 18-8314, Idaho Code, be, and the same is hereby
24 amended to read as follows:

- 25 18-8314. POWERS AND DUTIES OF THE SEXUAL AND VIOLENT OFFENDER MANAGE-
26 MENT BOARD. (1) The board shall develop, advance and oversee sound sexual
27 and violent offender management policies and practices statewide as demon-
28 strated by evidence-based best practices.
- 29 (2) The board shall carry out the following duties:
- 30 (a) Establish standards for psychosexual evaluations performed pur-
31 suant to section 18-8316, Idaho Code, and sexual offender treatment
32 programs based on current and evolving best practices.
- 33 (b) Establish qualifications, set forth procedures for approval and
34 certification and administer the certification process for:
- 35 (i) Professionals conducting psychosexual evaluations pursuant
36 to section 18-8316, Idaho Code, or adjudication proceedings on ju-
37 venile sexual offenders;
- 38 (ii) Professionals providing treatment to adult or juvenile sex-
39 ual offenders as ordered or required by the court, Idaho depart-
40 ment of correction, Idaho commission of pardons and parole or the
41 Idaho department of juvenile corrections; and
- 42 (iii) Professionals conducting postconviction sexual offender
43 polygraphs as ordered or required by the court, Idaho department
44 of correction or Idaho commission of pardons and parole.
- 45 (c) Establish a nonrefundable processing fee not to exceed one hundred
46 fifty dollars (\$150) for each initial certification and a nonrefundable
47 processing fee not to exceed one hundred fifty dollars (\$150) for each
48 annual recertification.

1 (d) Set forth and administer procedures for quality assurance of the
2 standards and qualifications established in this section.

3 (e) The board shall have authority to deny, revoke, restrict or suspend
4 a certification if standards or qualifications are not met or to other-
5 wise monitor a provider.

6 (f) Establish and implement standard protocols for sexual and violent
7 offender management, assessment and classification based on current
8 and evolving best practices.

9 (3) The board shall have authority to promulgate rules to carry out the
10 provisions of this chapter.

11 SECTION 13. That Section 18-8316, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVIC-
14 TION. If ordered by the court, a sexual offender convicted of any offense
15 listed in section 18-8304(1)(a), Idaho Code, may submit to an evaluation
16 to be completed and submitted to the court in the form of a written report
17 from a certified evaluator as defined in section 18-8303, Idaho Code, for
18 the court's consideration prior to sentencing and incarceration or release
19 on probation. The court shall select the certified evaluator from a central
20 roster of evaluators compiled by the sexual and violent offender manage-
21 ment board. A certified evaluator performing such an evaluation shall be
22 disqualified from providing any treatment ordered as a condition of any sen-
23 tence, unless waived by the court. An evaluation conducted pursuant to this
24 section shall be done in accordance with the standards established by the
25 board pursuant to section 18-8314, Idaho Code.

26 SECTION 14. That Section 18-8323, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 18-8323. PUBLIC ACCESS TO SEXUAL AND VIOLENT OFFENDER REGISTRY IN-
29 FORMATION. Information within the sexual and violent offender registry
30 collected pursuant to this chapter is subject to release only as provided by
31 this section.

32 (1) The department or sheriff shall provide public access to informa-
33 tion contained in the central sexual and violent offender registry by means
34 of the internet.

35 (2) Information that shall be made available to the public is limited
36 to:

37 (a) The offender's name including any aliases or prior names;

38 (b) The offender's date of birth;

39 (c) The address of each residence at which the offender resides or will
40 reside and, if the offender does not have any present or expected resi-
41 dence address, other information about where the offender has his or her
42 home or habitually lives;

43 (d) The address of any place where the offender is a student or will be a
44 student;

45 (e) A physical description of the offender;

1 (f) The offense for which the offender is registered and any other
2 sexual or violent offense for which the offender has been convicted and
3 the place of the convictions;

4 (g) A current photograph of the offender; and

5 (h) Temporary lodging information including the place and the period of
6 time the offender is staying at such lodging. "Temporary lodging" means
7 any place in which the offender is staying when away from his or her res-
8 idence for seven (7) or more days. If current information regarding the
9 offender's residence is not available because the offender is in viola-
10 tion of the requirement to register or cannot be located, then the web-
11 site shall so note.

12 (3) The following information shall not be disclosed to the public:

13 (a) The identity of the victim;

14 (b) The offender's social security number;

15 (c) Any reference to arrests of the offender that did not result in con-
16 viction;

17 (d) Any internet identifier associated with and/or provided by the of-
18 fender;

19 (e) Any information pertaining to the offender's passports and immi-
20 gration documents; and

21 (f) Any information identifying any person related to, living with,
22 working for, employing or otherwise associated with a registered sexual
23 or violent offender.

24 (4) Where a crime category such as "incest" may serve to identify a vic-
25 tim, that crime will be reported as a violation of section 18-1506, Idaho
26 Code.

27 (5) The department shall include a cautionary statement relating to
28 completeness, accuracy and use of registry information when releasing
29 information to the public or noncriminal justice agencies as well as a state-
30 ment concerning the penalties provided in section 18-8326, Idaho Code, for
31 misuse of registry information.

32 (6) Information released pursuant to this section may be used only for
33 the protection of the public.

34 (7) Further dissemination of registry information by any person or en-
35 tity shall include the cautionary statements required in subsection (5) of
36 this section.

37 SECTION 15. That Section 18-8324, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department
40 shall, within three (3) business days, disseminate any registration in-
41 formation collected under this chapter, including any changes in registry
42 information, to:

43 (a) The attorney general of the United States for inclusion in the na-
44 tional sex offender registry or other appropriate databases;

45 (b) Each school and public housing agency in each area in which the of-
46 fender resides, is an employee or is a student;

47 (c) Each jurisdiction where the sexual or violent offender resides,
48 is an employee or is a student and each jurisdiction from or to which a
49 change of residence, employment or student status occurs;

1 (d) Criminal justice agencies through the public safety and security
2 information system established in section 19-5202, Idaho Code;

3 (e) Any agency responsible for conducting employment-related back-
4 ground checks under section 3 of the national child protection act of
5 1993, 42 U.S.C. section 5119a;

6 (f) Social service entities responsible for protecting minors in the
7 child welfare system;

8 (g) Volunteer organizations in which contact with minors or other vul-
9 nerable adults might occur; and

10 (h) Any organization, company or individual who requests notification
11 of changes in registry information.

12 (2) Registry information provided under this section shall be used only
13 for the administration of criminal justice or for the protection of the pub-
14 lic as permitted by this chapter.

15 (3) The department shall include a cautionary statement relating to
16 completeness, accuracy and use of registry information when releasing
17 information to the public or noncriminal justice agencies as well as a state-
18 ment concerning the penalties provided in section 18-8326, Idaho Code, for
19 misuse of registry information.

20 (4) Information released pursuant to this section may be used only for
21 the protection of the public.

22 (5) Further dissemination of registry information by any person or en-
23 tity shall include the cautionary statements required in subsection (3) of
24 this section.

25 SECTION 16. That Section 18-8325, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 18-8325. EXEMPTION FROM CIVIL LIABILITY. (1) No person or governmen-
28 tal entity, other than those specifically charged in this chapter with a duty
29 to collect information under this chapter regarding registered sexual and
30 violent offenders, has a duty to inquire, investigate or disclose any infor-
31 mation regarding registered sexual and violent offenders.

32 (2) No person or governmental entity, other than those specifically
33 charged in this chapter with an affirmative duty to provide public access
34 to information regarding registered sexual and violent offenders, shall be
35 held liable for any failure to disclose any information regarding registered
36 sexual and violent offenders to any other person or entity.

37 (3) Every person or governmental entity who, acting without malice or
38 criminal intent, obtains or disseminates information under this chapter
39 shall be immune from civil liability for any damages claimed as a result of
40 such disclosures made or received.

41 SECTION 17. That Section 18-8327, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 18-8327. ADULT CRIMINAL SEX OFFENDER -- PROHIBITED EMPLOYMENT. (1)
44 Except as provided in section 18-8328, Idaho Code, it is a felony for any per-
45 son to: apply for or to accept employment at a day care center, group day care
46 facility or family day care home; or to be upon or to remain on the premises
47 of a day care center, group day care facility or family day care home while

1 children are present, other than to drop off or pick up the person's child
2 or children if the person is currently registered or is required to register
3 ~~under the as a sex offender registration act~~ as provided in chapter 83, title
4 18, Idaho Code.

5 (2) The owner or operator of any day care center, group day care facil-
6 ity or family day care home who knowingly employs a person or who knowingly
7 accepts volunteer services from a person, which person is currently regis-
8 tered or is required to register ~~under the as a sex offender registration act~~
9 as provided in chapter 83, title 18, Idaho Code, to work in the day care cen-
10 ter, group day care facility or family day care home is guilty of a misde-
11 meanor unless judicial relief has been granted pursuant to section 18-8328,
12 Idaho Code.

13 SECTION 18. That Section 18-8328, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 18-8328. ACTION FOR RELIEF BY ~~OFFENDER~~ ADULT OR JUVENILE SEX OF-
16 FENDER. Any person who is required to register as a sex offender pursuant to
17 chapter 83, title 18, Idaho Code, or as a juvenile sex offender pursuant to
18 chapter 84, title 18, Idaho Code, may file a petition in a district court in
19 the judicial district where the person resides, to have relief from the pro-
20 visions of section 18-8327 or 18-8414, Idaho Code, pertaining to employment
21 in or being upon or remaining on the premises of a day care center, group day
22 care facility or family day care home while children are present, other than
23 to drop off or pick up the sex offender's or juvenile sex offender's child or
24 children. To be granted relief pursuant to this section, the person shall
25 show by clear and convincing evidence that the person required to register as
26 a sex offender pursuant to chapter 83, title 18, Idaho Code, or as a juvenile
27 sex offender pursuant to chapter 84, title 18, Idaho Code, does not pose a
28 threat to children in a day care center, group day care facility or family
29 day care home, it has been at least ten (10) years since the person's last
30 conviction, finding of guilt or adjudication that required the person to
31 register as a sex offender pursuant to chapter 83, title 18, Idaho Code, or
32 as a juvenile sex offender pursuant to chapter 84, title 18, Idaho Code, and
33 the petitioner presents testimony from a licensed physician or psychologist
34 about the petitioner's chance of success of not committing an act against
35 children.

36 SECTION 19. That Section 18-8329, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 18-8329. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED ACCESS TO SCHOOL
39 CHILDREN -- EXCEPTIONS. (1) If a person is currently registered or is re-
40 quired to register ~~under the as a sex offender registration act~~ as provided
41 in chapter 83, title 18, Idaho Code, it is a misdemeanor for such person to:

42 (a) Be upon or to remain on the premises of any school building or school
43 grounds in this state, or upon other properties posted with a notice
44 that they are used by a school, when the person has reason to believe
45 children under the age of eighteen (18) years are present and are in-
46 volved in a school activity or when children are present within thirty
47 (30) minutes before or after a scheduled school activity.

1 (b) Knowingly loiter on a public way within five hundred (500) feet from
2 the property line of school grounds in this state, including properties
3 posted with a notice that they are used by a school, when children under
4 the age of eighteen (18) years are present and are involved in a school
5 activity or when children are present within thirty (30) minutes before
6 or after a scheduled school activity.

7 (c) Be in any conveyance owned or leased by a school to transport stu-
8 dents to or from school or a school-related activity when children under
9 the age of eighteen (18) years are present in the conveyance.

10 (d) Reside within five hundred (500) feet of the property on which a
11 school is located, measured from the nearest point of the exterior wall
12 of the offender's dwelling unit to the school's property line, provided
13 however, that this paragraph ~~(d)~~ shall not apply if such person's resi-
14 dence was established prior to July 1, 2006.

15 The posted notices required in this subsection (1) shall be at least one
16 hundred (100) square inches, shall make reference to section 18-8329, Idaho
17 Code, shall include the term "registered sex offender" and shall be placed at
18 all public entrances to the property.

19 (2) The provisions of subsections (1) (a) and ~~(1)~~(b) of this section
20 shall not apply when the person:

21 (a) Is a student in attendance at the school; or

22 (b) Resides at a state licensed or certified facility for incarceration,
23 health or convalescent care; or

24 (c) Is exercising his right to vote in public elections; or

25 (d) Is taking delivery of his mail through an official post office lo-
26 cated on school grounds; or

27 (e) Stays at a homeless shelter or resides at a recovery facility if
28 such shelter or facility has been approved for sex offenders by the
29 county sheriff or municipal police chief; or

30 (f) Contacts the school district office annually and prior to his first
31 visit of a school year and has obtained written permission from the dis-
32 trict to be on the school grounds or upon other property posted with a
33 notice that the property is used by a school. For the purposes of this
34 section, "contacts the school district office" shall include mail, fac-
35 simile machine, or by computer using the internet. The provisions of
36 this subsection are required for an individual who:

37 (i) Is dropping off or picking up a child or children and the per-
38 son is the child or children's parent or legal guardian; or

39 (ii) Is attending an academic conference or other scheduled ex-
40 tracurricular school event with school officials present when the
41 offender is a parent or legal guardian of a child who is partic-
42 ipating in the conference or extracurricular event. "Extracur-
43 ricular" means any school-sponsored activity that is outside the
44 regular curriculum, occurring during or outside regular school
45 hours including, but not limited to, academic, artistic, athletic
46 or recreational activities; or

47 (iii) Is temporarily on school grounds, during school hours, for
48 the purpose of making a mail, food or other delivery.

49 (3) Nothing in this section shall prevent a school district from adopt-
50 ing more stringent safety and security requirements for employees and nonem-

1 ployees while they are in district facilities and/or on district properties.
2 If adopting more stringent safety and security requirements, the school dis-
3 trict shall provide the requirements to any individual listed in subsection
4 (2) (f) (i) through (iii) by mail, facsimile machine or by computer using the
5 internet.

6 SECTION 20. That Section 18-8331, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 18-8331. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED GROUP DWELLING --
9 EXCEPTIONS. (1) Except as otherwise provided in this section, when a person
10 is required to register as a sex offender pursuant to this chapter, that per-
11 son may not reside in any residential dwelling unit with more than one (1)
12 other person who is also required to register pursuant to this chapter. If,
13 on the effective date of this section, any person required to register pur-
14 suant to this chapter, is legally residing in a residential dwelling unit
15 with more than one (1) other person required to so register, the person may
16 continue to reside in that residential dwelling unit without violating the
17 provisions of this section, provided that no additional persons so required
18 to register shall move into that residential dwelling unit if the person mov-
19 ing in would be in violation of this section.

20 (2) For purposes of this section:

21 (a) "Reside" and "residing" mean occupying the residential dwelling
22 unit as a fixed place of abode or habitation for any period and to which
23 place the person has the intention of returning after a departure or
24 absence therefrom regardless of the duration of absence.

25 (b) "Residential dwelling unit" includes, but is not limited to, sin-
26 gles family dwellings and units in multifamily dwellings including units
27 in duplexes, apartment dwellings, mobile homes, condominiums and town-
28 houses in areas zoned as residential. For the purposes of this section a
29 state or federally licensed health care or convalescent facility is not
30 a residential dwelling unit.

31 (3) (a) A judge of the district court may, upon petition and after an
32 appropriate hearing, authorize a person required to register as a sex
33 offender pursuant to this chapter, to reside in a residential dwelling
34 unit with more than one (1) other person who is also required to regis-
35 ter as a sex offender pursuant to this chapter, if the judge determines
36 that:

37 (i) Upon clear and convincing evidence that not doing so would de-
38 prive the petitioner of a constitutionally guaranteed right; and

39 (ii) That such right is more compelling under the facts of the case
40 than is the interest of the state and local government in protect-
41 ing neighboring citizens, including minors, from risk of physi-
42 cal or psychological harm. Such risk of harm shall be presumed ab-
43 sent clear and convincing evidence to the contrary given the ap-
44 plicant's status as a person required to register as a sex offender
45 pursuant to this chapter;

46 (b) Any exception allowed under this section shall be limited to al-
47 leviate only a deprivation of constitutional right which is more com-
48 pelling than the interest of the state and local government in minimiz-
49 ing the risk of harm to the neighboring citizens;

1 (c) Any order of exception under this section shall be made a part of the
2 registry maintained pursuant to this chapter.

3 (4) Any city or county may establish standards for the establishment
4 and operation of residential houses for registered sex offenders which ex-
5 ceed the number of registered sex offenders allowed to reside in a residen-
6 tial dwelling unit under subsection (1) of this section. Applicable stan-
7 dards shall include establishing procedures to allow comment of neighboring
8 residents within a specified distance, and may include, but are not limited
9 to:

10 (a) Designating permissible zones in which such houses may be located;

11 (b) Designating permissible distances between such houses;

12 (c) Designating the maximum number of registered sex offenders allowed
13 to reside in such houses;

14 (d) Designating qualifications and standards for supervision and care
15 of such houses and the residents;

16 (e) Designating requirements and procedures to qualify as the operator
17 of such houses, including any requirement that the residents be engaged
18 in treatment or support programs for sex offenders and related addic-
19 tion treatment or support programs; and

20 (f) Designating any health and safety requirements which are different
21 than those applicable to other residential dwelling units in the zone.

22 (5) No person or entity shall operate a residence house for registered
23 sex offenders in violation of the limitations of subsection (1) of this sec-
24 tion except as otherwise provided under subsection (4) of this section. If,
25 on the effective date of this section, any individual or entity is operat-
26 ing an existing residence house for persons required to register pursuant to
27 this chapter, and when such individual or entity also requires such persons
28 to be participants in a sex offender treatment or support program such indi-
29 vidual or entity shall not be precluded from continuing to operate such resi-
30 dence house, provided that:

31 (a) The residence house shall not operate at a capacity exceeding eight
32 (8) residents in the dwelling unit and two (2) residents per bedroom, or
33 the existing number of residents, whichever is less;

34 (b) Once the governing city or county enacts an ordinance pursuant
35 to subsection (4) of this section establishing standards for the op-
36 eration of a residence house for sex offenders, the operator of the
37 residence house shall, no later than one (1) year after enactment of
38 the ordinance, comply with all standards of the ordinance, except any
39 requirement that is less than the maximum capacity provided for under
40 subsection (5) (a) of this section or which requires a relocation of the
41 residence;

42 (c) The burden of proving that an existing residence house qualifies
43 for continuing operation under this subsection shall be upon the opera-
44 tor of the residence house;

45 (d) Any change in the use of an existing residence house shall void the
46 exception for the continuing operation of the house under the provi-
47 sions of this section.

48 (6) If any person required to register as a sex offender pursuant to
49 this chapter, is on parole or probation under the supervision of the Idaho
50 department of correction, the department shall be notified by the person

1 or the person's agent of any intent to reside with another person required
2 to register under this chapter. The department must approve the living ar-
3 rangement in advance as consistent with the terms of the parole or probation,
4 and consistent with the objective of reducing the risk of recidivism. The
5 department shall establish rules governing the application of this subsec-
6 tion.

7 (7) Any person who knowingly and with intent violates the provisions of
8 this section is guilty of a misdemeanor.

9 (8) Any city or county is entitled to injunctive relief against any per-
10 son or entity operating a residence house within its jurisdiction in viola-
11 tion of this section.

12 SECTION 21. That Section 18-8403, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 18-8403. DEFINITIONS. As used in this chapter, "juvenile sex of-
15 fender" means a person who was between fourteen (14) years of age to eighteen
16 (18) years of age at the time the qualifying sex offense was committed and
17 who:

18 (1) On or after July 1, 1998, was adjudicated delinquent under the ju-
19 venile corrections act for an action that would be an offense enumerated in
20 section 18-8304(a), Idaho Code, if committed by an adult; or

21 (2) As of July 1, 1998, is serving formal probation, a period of deten-
22 tion, or commitment to the department of juvenile corrections as the result
23 of sentencing imposed under section 20-520, Idaho Code, for an action that
24 would be an offense enumerated in section 18-8304(a), Idaho Code, if commit-
25 ted by an adult; or

26 (3) Was adjudicated delinquent in another state for an action that is
27 substantially equivalent to the offenses enumerated in section 18-8304(a),
28 Idaho Code, and is subject on or after July 1, 1998, to Idaho court jurisdic-
29 tion under the interstate compact on juveniles; or

30 (4) Is required to register in another state for having committed a sex
31 offense in that state regardless of the date of the offense or its adjudica-
32 tion.

33 SECTION 22. That Section 7-805, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 7-805. RESTRICTIONS ON NAME CHANGES FOR CONVICTED SEXUAL AND VIOLENT
36 OFFENDERS -- NOTIFICATION OF NAME CHANGES OF CONVICTED SEXUAL AND VIOLENT
37 OFFENDERS. (1) No person shall apply for a change of name with the intent or
38 purpose of avoiding registration as a convicted sexual or violent offender
39 pursuant to chapter 83, title 18, Idaho Code. No name change shall be granted
40 to any person if the name change would have the effect of relieving the person
41 of the duty to register as a convicted sexual or violent offender under chap-
42 ter 83, title 18, Idaho Code, or under the provisions of similar laws enacted
43 by another state.

44 (2) The court granting a name change to any individual required to reg-
45 ister as a convicted sexual or violent offender pursuant to the provisions of
46 chapter 83, title 18, Idaho Code, shall provide notice of the name change to
47 the Idaho state police, central sexual and violent offender registry. This

1 notice shall include the offender's name prior to change, new name, social
2 security number, date of birth and last known address.