

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 512

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO OFFENSES AGAINST CHILDREN; AMENDING SECTION 18-1501, IDAHO
2 CODE, TO REVISE PENALTIES FOR INJURY TO CHILDREN AND TO MAKE TECHNICAL
3 CORRECTIONS; AMENDING SECTION 18-1506, IDAHO CODE, TO REVISE DEFINI-
4 TIONS, AND TO REVISE PENALTIES FOR SEXUAL ABUSE OF A CHILD UNDER THE AGE
5 OF SIXTEEN YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
6 18-1506A, IDAHO CODE, TO REVISE PENALTIES FOR RITUALIZED ABUSE OF A
7 CHILD; AMENDING SECTION 18-1506B, IDAHO CODE, TO REVISE DEFINITIONS,
8 AND TO REVISE PENALTIES FOR GENITAL MUTILATION OF A CHILD; AMENDING
9 SECTION 18-1507, IDAHO CODE, TO REVISE PENALTIES FOR SEXUAL EXPLOITA-
10 TION OF A CHILD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
11 18-1508, IDAHO CODE, TO REVISE PENALTIES FOR LEWD CONDUCT WITH MINOR
12 CHILDREN UNDER SIXTEEN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
13 TION 18-1508A, IDAHO CODE, TO REVISE PENALTIES FOR SEXUAL BATTERY OF A
14 MINOR CHILD SIXTEEN OR SEVENTEEN YEARS OF AGE AND TO MAKE TECHNICAL COR-
15 RECTIONS; AMENDING SECTION 18-1509A, IDAHO CODE, TO REVISE PENALTIES
16 FOR ENTICING A CHILD THROUGH USE OF INTERNET OR OTHER COMMUNICATION DE-
17 VICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-6104, IDAHO
18 CODE, TO REVISE PENALTIES FOR RAPE AND TO MAKE TECHNICAL CORRECTIONS;
19 AMENDING SECTION 19-2601, IDAHO CODE, TO ESTABLISH PROVISIONS REGARD-
20 ING COMMUTATION, SUSPENSION, AND WITHHOLDING OF SENTENCE AND TO MAKE
21 TECHNICAL CORRECTIONS; AMENDING SECTION 39-5210, IDAHO CODE, TO REVISE
22 PROVISIONS REGARDING THE DOMESTIC VIOLENCE PROJECT ACCOUNT; AMENDING
23 SECTION 72-1025, IDAHO CODE, TO ESTABLISH PROVISIONS DIRECTING THE
24 DEPOSIT OF FINES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN
25 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
26

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

28 SECTION 1. That Section 18-1501, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 18-1501. INJURY TO CHILDREN. (1) Any person who, under circumstances
31 or conditions likely to produce great bodily harm or death, willfully causes
32 or permits any child to suffer, or inflicts thereon unjustifiable physical
33 pain or mental suffering, or having the care or custody of any child, will-
34 fully causes or permits the person or health of such child to be injured, or
35 willfully causes or permits such child to be placed in such situation that
36 its person or health is endangered, is guilty of a felony and is punishable
37 by imprisonment in the county jail not exceeding one (1) year, or in the state
38 prison for not less than one (1) year nor more than ten (10) years in a state
39 prison for a period of no less than three (3) years and no more than ten (10)
40 years, and is not eligible for suspension of sentence, probation, pardon, or
41 release from confinement on any basis except as specifically authorized pur-
42 suant to section 20-223, Idaho Code.

1 (2) Any person who, under circumstances or conditions other than those
 2 likely to produce great bodily harm or death, willfully causes or permits any
 3 child to suffer, or inflicts thereon unjustifiable physical pain or mental
 4 suffering, or having the care or custody of any child, willfully causes or
 5 permits the person or health of such child to be injured, or willfully causes
 6 or permits such child to be placed in such situation that its person or health
 7 may be endangered, is guilty of a misdemeanor.

8 (3) A person over ~~the age of~~ eighteen (18) years of age commits the crime
 9 of injury to a child if the person transports a minor in a motor vehicle or
 10 vessel as defined in section 67-7003, Idaho Code, while under the influence
 11 of alcohol, intoxicating liquor, a controlled substance, or any combination
 12 thereof, in violation of section 18-8004 or 67-7034, Idaho Code. Any per-
 13 son convicted of violating this subsection is guilty of a misdemeanor. If a
 14 child suffers bodily injury or death due to a violation of this subsection,
 15 the violation will constitute a felony punishable by imprisonment for ~~not~~
 16 no more than ten (10) years, unless a more severe penalty is otherwise pre-
 17 scribed by law.

18 (4) The practice of a parent or guardian who chooses for his child
 19 treatment by prayer or spiritual means alone shall not for that reason alone
 20 be construed to have violated the duty of care to such child.

21 (5) As used in this section, "willfully" means acting or failing to act
 22 where a reasonable person would know the act or failure to act is likely to
 23 result in injury or harm or is likely to endanger the person, health, safety
 24 or well-being of the child.

25 SECTION 2. That Section 18-1506, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 18-1506. SEXUAL ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN YEARS. (1)
 28 It is a felony for any person eighteen (18) years of age or older, with the
 29 intent to gratify the lust, passions, or sexual desire of the actor, minor
 30 child or third party, to:

- 31 (a) Solicit a minor child under the age of sixteen (16) years to partic-
 32 ipate in a sexual act;
- 33 (b) Cause or have sexual contact with such minor child, not amounting to
 34 lewd conduct as defined in section 18-1508, Idaho Code; or
- 35 (c) Induce, cause or permit a minor child to witness an act of sexual
 36 conduct.

37 (2) For the purposes of this section, "solicit" means any written,
 38 verbal, or physical act ~~which that~~ is intended to communicate to such minor
 39 child the desire of the actor or third party to participate in a sexual act or
 40 participate in sexual foreplay, by the means of sexual contact, photograph-
 41 ing or observing such minor child engaged in sexual contact.

42 (3) For the purposes of this section, "sexual contact" means any phys-
 43 ical contact between such minor child and any person, which is caused by the
 44 actor, or the actor causing such minor child to have self contact.

45 (4) For the purposes of this section, "sexual conduct" means: human
 46 ~~masturbation, sexual intercourse, sadomasochistic abuse, or any touching of~~
 47 ~~the genitals or pubic areas of the human male or female, or the breasts of the~~
 48 ~~female, whether alone or between members of the same or opposite sex or be-~~

1 ~~tween humans and animals in an act of apparent sexual stimulation or gratifi-~~
 2 ~~cation.~~

- 3 (a) Human masturbation, sexual intercourse, sadomasochistic abuse; or
 4 (b) Any touching of the genitals or pubic areas of a human male or fe-
 5 male, or the breast of a female, whether alone or between members of the
 6 same or opposite sex or between humans and animals in an act of apparent
 7 sexual stimulation or gratification.

8 (5) Any person guilty of a violation of the provisions of paragraph
 9 (4) (a) of this section shall be imprisoned in the state prison for a period
 10 not to exceed twenty-five (25) years and is not eligible for suspension of
 11 sentence, probation, pardon, or release of confinement on any basis except
 12 as specifically authorized pursuant to section 20-223, Idaho Code.

13 (6) Any person with three (3) or more adjudicated offenses pursuant to
 14 the provisions of paragraph (4) (a) of this section shall be imprisoned in the
 15 state prison for a period of no less than ten (10) years and not more than
 16 life, and shall not be eligible for suspension of sentence, probation, par-
 17 don, or release from confinement on any basis except as specifically autho-
 18 riized pursuant to section 20-223, Idaho Code.

19 (7) Any person guilty of a violation of the provisions of paragraph
 20 (4) (b) of this section shall be imprisoned in the state prison for a period of
 21 no less than three (3) years and no more than twenty-five (25) years.

22 (8) Any person with three (3) or more adjudicated offenses pursuant to
 23 the provisions of paragraph (4) (b) of this section shall be imprisoned in
 24 the state prison for a period of no less than five (5) years and no more than
 25 twenty-five (25) years, and is not eligible for suspension of sentence, pro-
 26 bation, pardon, or release from confinement on any basis except as specifi-
 27 cally authorized pursuant to section 20-233, Idaho Code.

28 SECTION 3. That Section 18-1506A, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 18-1506A. RITUALIZED ABUSE OF A CHILD -- EXCLUSIONS -- PENALTIES --
 31 DEFINITION. (1) A person is guilty of a felony when he commits any of the fol-
 32 lowing acts with, upon, or in the presence of a child as part of a ceremony,
 33 rite or any similar observance:

- 34 (a) Actually or in simulation, tortures, mutilates or sacrifices any
 35 warm-blooded animal or human being;
 36 (b) Forces ingestion, injection or other application of any narcotic,
 37 drug, hallucinogen or anaesthetic for the purpose of dulling sensitiv-
 38 ity, cognition, recollection of, or resistance to any criminal activ-
 39 ity;
 40 (c) Forces ingestion, or external application, of human or animal
 41 urine, feces, flesh, blood, bones, body secretions, nonprescribed
 42 drugs or chemical compounds;
 43 (d) Involves the child in a mock, unauthorized or unlawful marriage
 44 ceremony with another person or representation of any force or deity,
 45 followed by sexual contact with the child;
 46 (e) Places a living child into a coffin or open grave containing a human
 47 corpse or remains;

1 (f) Threatens death or serious harm to a child, his parents, family,
2 pets or friends which instills a well-founded fear in the child that the
3 threat will be carried out; or

4 (g) Unlawfully dissects, mutilates, or incinerates a human corpse.

5 (2) The provisions of this section shall not be construed to apply to:

6 (a) Lawful agricultural, animal husbandry, food preparation or wild
7 game hunting and fishing practices and specifically the branding or
8 identification of livestock;

9 (b) The lawful medical practice of circumcision or any ceremony related
10 thereto; or

11 (c) Any state or federally approved, licensed or funded research
12 project.

13 (3) Any person convicted of a violation of this section shall be impris-
14 oned in the state prison for a term of ~~not more than life~~ no less than five
15 (5) years and no more than life and is not eligible for suspension of sen-
16 tence, probation, pardon, or release from confinement on any basis except as
17 specifically authorized pursuant to section 20-223, Idaho Code.

18 (4) Any person with three (3) or more adjudicated offenses pursuant to
19 this section shall be imprisoned in a state prison for a term of no less than
20 ten (10) years and no more than life.

21 ~~(4)~~ (5) For the purposes of this section, "child" means any person under
22 eighteen (18) years of age.

23 SECTION 4. That Section 18-1506B, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 18-1506B. ~~FEMALE~~ GENITAL MUTILATION OF A CHILD -- EXCLUSIONS -- PENAL-
26 TIES -- DEFINITION. (1) Except as provided in subsection (4) of this section,
27 whoever knowingly circumcises, excises, or infibulates the whole or any part
28 of the labia majora, labia minora, or clitoris of a female child, or who-
29 ever knowingly circumcises, excises, or infibulates the whole or any part of
30 the penis, glans, testes, or foreskin of a male child, shall be guilty of a
31 felony.

32 (2) Except as provided in subsection (4) of this section, whoever know-
33 ingly gives permission for, or permits on a child, any act prohibited by sub-
34 section (1) of this section shall be guilty of a felony.

35 (3) Except as provided in subsection (4) of this section, whoever know-
36 ingly removes or causes, permits, or facilitates the removal of a child from
37 this state for the purpose of facilitating any act prohibited by subsection
38 (1) of this section shall be guilty of a felony.

39 (4) A surgical operation shall not be a violation of this section if the
40 operation is:

41 (a) Necessary to the health of the person on whom it is performed and
42 is performed by a person licensed in the place of its performance as a
43 medical practitioner; or

44 (b) Performed on a person in labor or who has just given birth and is
45 performed for medical purposes connected with that labor or birth by a
46 person licensed in the place it is performed as a medical practitioner,
47 midwife, or person in training to become such a practitioner or midwife.

48 (5) In applying subsection (4) (a) of this section, no account shall be
49 taken of the effect on the person on whom the operation is to be performed or

1 any belief on the part of that person, or any other person, that the operation
2 is required as a matter of custom or ritual.

3 (6) Any person convicted of a violation of this section shall be guilty
4 of a felony and shall be imprisoned in the state prison for a term of ~~not more~~
5 ~~than life~~ no less than ten (10) years and no more than life, and is not el-
6 igible for suspension of sentence, probation, pardon, or release from con-
7 finement on any basis except as specifically authorized pursuant to section
8 20-223, Idaho Code.

9 (7) For the purposes of this section, "child" means any person under
10 eighteen (18) years of age.

11 SECTION 5. That Section 18-1507, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 18-1507. DEFINITIONS -- SEXUAL EXPLOITATION OF A CHILD -- PENAL-
14 TIES. (1) As used in this section, unless the context otherwise requires:

15 (a) "Bestiality" means a sexual connection in any manner between a hu-
16 man being and any animal.

17 (b) "Child" means a person who is less than eighteen (18) years of age.

18 (c) "Erotic fondling" means touching a person's clothed or unclothed
19 genitals or pubic area, developing or undeveloped genitals or pubic
20 area (if the person is a child), buttocks, breasts (if the person is a
21 female), or developing or undeveloped breast area (if the person is a
22 female child), for the purpose of real or simulated overt sexual grat-
23 ification or stimulation of one (1) or more of the persons involved.
24 "Erotic fondling" shall not be construed to include physical contact,
25 even if affectionate, ~~which that~~ is not for the purpose of real or sim-
26 ulated overt sexual gratification or stimulation of one (1) or more of
27 the persons involved.

28 (d) "Erotic nudity" means the display of the human male or female geni-
29 tals or pubic area, the undeveloped or developing genitals or pubic area
30 of the human male or female child, the human female breasts, or the un-
31 developed or developing breast area of the human female child, for the
32 purpose of real or simulated overt sexual gratification or stimulation
33 of one (1) or more of the persons involved.

34 (e) "Explicit sexual conduct" means sexual intercourse, erotic
35 fondling, erotic nudity, masturbation, sadomasochism, sexual excite-
36 ment, or bestiality.

37 (f) "Masturbation" means the real or simulated touching, rubbing, or
38 otherwise stimulating of a person's own clothed or unclothed genitals
39 or pubic area, developing or undeveloped genitals or pubic area (if the
40 person is a child), buttocks, breasts (if the person is a female), or
41 developing or undeveloped breast area (if the person is a female child),
42 by manual manipulation or self-induced or with an artificial instru-
43 ment, for the purpose of real or simulated overt sexual gratification or
44 arousal of the person.

45 (g) "Sadomasochism" means:

46 (i) Real or simulated flagellation or torture for the purpose of
47 real or simulated sexual stimulation or gratification; or

1 (ii) The real or simulated condition of being fettered, bound, or
 2 otherwise physically restrained for sexual stimulation or grati-
 3 fication of a person.

4 (h) "Sexual excitement" means the real or simulated condition of human
 5 male or female genitals when in a state of real or simulated overt sexual
 6 stimulation or arousal.

7 (i) "Sexual intercourse" means real or simulated intercourse, whether
 8 genital-genital, oral-genital, anal-genital, or oral-anal, between
 9 persons of the same or opposite sex, or between a human and an animal, or
 10 with an artificial genital.

11 (j) "Sexually exploitative material" means any image, photograph, mo-
 12 tion picture, video, print, negative, slide, or other mechanically,
 13 electronically, digitally or chemically produced or reproduced visual
 14 material ~~which~~ that shows a child engaged in, participating in, ob-
 15 serving, or being used for explicit sexual conduct, or showing a child
 16 engaging in, participating in, observing or being used for explicit
 17 sexual conduct, in actual time, including ~~7~~ but not limited to ~~7~~ video
 18 chat, webcam sessions or video calling.

19 (2) A person commits sexual exploitation of a child if he knowingly and
 20 willfully:

21 (a) Possesses or accesses through any means, including ~~7~~ but not limited
 22 to ~~7~~ the internet, any sexually exploitative material; or

23 (b) Causes, induces or permits a child to engage in, or be used for, any
 24 explicit sexual conduct for the purpose of producing or making sexually
 25 exploitative material; or

26 (c) Promotes, prepares, publishes, produces, makes, finances, offers,
 27 exhibits or advertises any sexually exploitative material; or

28 (d) Distributes through any means, including ~~7~~ but not limited to ~~7~~ mail,
 29 physical delivery or exchange, use of a computer or any other electronic
 30 or digital method, any sexually exploitative material. Distribution
 31 of sexually exploitative material does not require a pecuniary transac-
 32 tion or exchange of interests in order to complete the offense.

33 (3) The sexual exploitation of a child pursuant to subsection (2) (a) of
 34 this section is a felony and shall be punishable by imprisonment in the state
 35 prison for a period not to exceed ten (10) years ~~or~~ and by a fine not to exceed
 36 ten thousand dollars (\$10,000), or by both such imprisonment and fine.

37 (4) The sexual exploitation of a child pursuant to subsections (2) (b),
 38 (c) and (d) of this section is a felony and shall be punishable by imprison-
 39 ment in the state prison for a term not ~~to exceed thirty (30) years or less~~
 40 than five (5) years and not more than thirty (30) years, and by a fine not to
 41 exceed fifty thousand dollars (\$50,000) or by both such fine and imprison-
 42 ment and is not eligible for suspension of sentence, probation, pardon, or
 43 release from confinement on any basis except as specifically authorized pur-
 44 suant to section 20-223, Idaho Code.

45 (5) Any person with three (3) or more adjudicated offenses pursuant
 46 to subsections (3) and (4) of this section shall be subject to imprisonment
 47 in a state prison for a term of no less than ten (10) years and no more than
 48 thirty (30) years and by a fine not to exceed seventy-five thousand dollars
 49 (\$75,000).

1 ~~(5)~~ (6) Notwithstanding any other provisions of this section, a person
 2 eighteen (18) years of age or older who is found to be in knowing and willful
 3 possession of content created and distributed under circumstances defined
 4 in section 18-1507A(1) or (2), Idaho Code, is guilty of a misdemeanor pro-
 5 vided that:

6 (a) The minor depicted in the content distributed the content in such a
 7 way that the minor intended the person found to be in possession to re-
 8 ceive it;

9 (b) The minor depicted in the content is not greater than three (3)
 10 years younger than the person found to be in possession; and

11 (c) The person found to be in possession of the content did not use coer-
 12 cion, manipulation or fraud to obtain possession of the content.

13 ~~(6)~~ (7) If any provision of this section or the application thereof to
 14 any person or circumstance is held invalid, such invalidity shall not affect
 15 other provisions or applications of this section ~~which~~ that can be given ef-
 16 fect without the invalid provision or application, and to this end the provi-
 17 sions of this section are declared to be severable.

18 SECTION 6. That Section 18-1508, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 18-1508. LEWD CONDUCT WITH MINOR CHILD UNDER SIXTEEN. Any person who
 21 shall commit any lewd or lascivious act or acts upon or with the body or any
 22 part or member thereof of a minor child under ~~the age of~~ sixteen (16) years
 23 of age, including but not limited to, genital-genital contact, oral-geni-
 24 tal contact, anal-genital contact, oral-anal contact, manual-anal contact,
 25 or manual-genital contact, whether between persons of the same or opposite
 26 sex, or who shall involve such minor child in any act of bestiality or sado-
 27 masochism as defined in section 18-1507, Idaho Code, when any of such acts
 28 are done with the intent of arousing, appealing to, or gratifying the lust or
 29 passions or sexual desires of such person, such minor child, or third party,
 30 shall be guilty of a felony and shall be imprisoned in the state prison for a
 31 term of ~~not more than life~~ no less than five (5) years and no more than life
 32 for each offense, and is not eligible for suspension of sentence, probation,
 33 pardon, or release from confinement on any basis except as specifically au-
 34 thorized pursuant to section 20-223, Idaho Code. Any person with three (3)
 35 or more adjudicated offenses pursuant to this section shall be imprisoned in
 36 the state prison for a term of no less than ten (10) years and no more than
 37 life.

38 SECTION 7. That Section 18-1508A, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 18-1508A. SEXUAL BATTERY OF A MINOR CHILD SIXTEEN OR SEVENTEEN YEARS
 41 OF AGE -- PENALTY. (1) It is a felony for any person at least five (5) years
 42 ~~of age~~ older than a minor child who is sixteen (16) or seventeen (17) years of
 43 age, ~~who~~ with the intent of arousing, appealing to or gratifying the lust,
 44 passion, or sexual desires of such person, minor child, or third party, to:

45 (a) Commit any lewd or lascivious act or acts upon or with the body or
 46 any part or any member thereof of such minor child, including, but not
 47 limited to, genital-genital contact, oral-genital contact, anal-gen-

1 ital contact, oral-anal contact, manual-anal contact or manual-geni-
2 tal contact, whether between persons of the same or opposite sex, or ~~who~~
3 ~~shall to~~ involve such minor child in any act of explicit sexual conduct
4 as defined in section 18-1507, Idaho Code; or

5 (b) Solicit such minor child to participate in a sexual act; or

6 (c) Cause or have sexual contact with such minor child, not amounting to
7 lewd conduct as defined in paragraph (a) of this subsection.

8 (2) For the purpose of subsection (1) (b) of this section, "solicit"
9 means any written, verbal or physical act ~~which~~ that is intended to communi-
10 cate to such minor child the desire of the actor or third party to participate
11 in a sexual act or participate in sexual foreplay, by the means of sexual con-
12 tact, photographing or observing such minor child engaged in sexual contact.

13 (3) For the purpose of this section, "sexual contact" means any phys-
14 ical contact between such minor child and any person or between such minor
15 children which is caused by the actor, or the actor causing such minor child
16 to have self contact.

17 (4) Any person guilty of a violation of the provisions of subsection
18 (1) (a) of this section shall be imprisoned in the state prison for a period
19 ~~not to exceed life~~ no less than five (5) years and no more than life, and is
20 not eligible for suspension of sentence, probation, pardon, or release from
21 confinement on any basis except as specifically authorized pursuant to sec-
22 tion 20-223, Idaho Code.

23 (5) Any person guilty of a violation of the provisions of subsection
24 (1) (b) or (c) of this section shall be imprisoned in the state prison for a
25 period ~~not to exceed~~ no less than one (1) year and no more than twenty-five
26 (25) years.

27 (6) Any person with three (3) or more adjudicated offenses pursuant to
28 this section shall be imprisoned in a state prison for a period no less than
29 five (5) years and no more than life, and is not eligible for suspension of
30 sentence, probation, pardon, or release from confinement on any basis except
31 as specifically authorized pursuant to section 20-223, Idaho Code.

32 SECTION 8. That Section 18-1509A, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 18-1509A. ENTICING A CHILD THROUGH USE OF THE INTERNET OR OTHER
35 COMMUNICATION DEVICE -- PENALTIES -- JURISDICTION. (1) A person ~~aged~~ eigh-
36 teen (18) years of age or older shall be guilty of a felony if such person
37 knowingly uses the internet or any device that provides transmission of mes-
38 sages, signals, facsimiles, video images or other communication to solicit,
39 seduce, lure, persuade or entice by words or actions, or both, a person under
40 ~~the age of sixteen (16) years of age~~ or a person the defendant believes to be
41 under ~~the age of sixteen (16) years of age~~ to engage in any sexual act with or
42 against the person where such act would be a violation of chapter 15, 61 or
43 66, title 18, Idaho Code.

44 (2) Any person who is convicted of a violation of this section shall
45 be punished by imprisonment in the state prison for a period ~~not to exceed~~ no
46 less than one (1) year and no more than fifteen (15) years.

47 (3) It shall not constitute a defense against any charge or violation of
48 this section that a law enforcement officer, peace officer, or other person

1 working at the direction of law enforcement was involved in the detection or
2 investigation of a violation of this section.

3 (4) In a prosecution under this section, it is not necessary for the
4 prosecution to show that an act described in chapter 15, 61 or 66, title 18,
5 Idaho Code, actually occurred.

6 (5) The offense is committed in the state of Idaho for purposes of de-
7 termining jurisdiction if the transmission that constitutes the offense ei-
8 ther originates in or is received in the state of Idaho.

9 SECTION 9. That Section 18-6104, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 18-6104. PUNISHMENT FOR RAPE. Rape is punishable by imprisonment in
12 the state prison ~~not for no~~ less than ~~one (1) year~~ five (5) years, and the
13 imprisonment may be extended to life in the discretion of the ~~District Judge~~
14 district judge, who shall pass sentence.

15 SECTION 10. That Section 19-2601, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PRO-
18 BATION. Whenever any person shall have been convicted, or enter a plea of
19 guilty, in any district court of the state of Idaho, of or to any crime
20 against the laws of the state, except those of treason ~~or murder~~, murder,
21 child sexual abuse pursuant to section 18-1506, Idaho Code, ritualized abuse
22 of a child pursuant to section 18-1506A, Idaho Code, genital mutilation of
23 a child pursuant to section 18-1506B, Idaho Code, sexual exploitation of a
24 minor pursuant to section 18-1507, Idaho Code, lewd conduct with a child un-
25 der sixteen (16) years of age pursuant to section 18-1508, Idaho Code, sexual
26 battery of a minor pursuant to section 18-1508A, Idaho Code, enticement of a
27 minor pursuant to section 18-1509A, Idaho Code, or rape of a minor pursuant
28 to section 18-6101, Idaho Code, the court in its discretion may:

29 1. Commute the sentence and confine the defendant in the county jail,
30 or, if the defendant is of proper age, commit the defendant to the custody of
31 the state department of juvenile corrections;

32 2. Suspend the execution of the judgment at the time of judgment or at
33 any time during the term of a sentence in the county jail and may place the
34 defendant on probation under such terms and conditions as it deems necessary
35 and appropriate;

36 3. Withhold judgment on such terms and for such time as it may prescribe
37 and may place the defendant on probation under such terms and conditions as
38 it deems necessary and appropriate; or

39 4. Suspend the execution of the judgment at any time during the first
40 three hundred sixty-five (365) days of a sentence to the custody of the state
41 board of correction. The court may retain jurisdiction over the prisoner
42 for a period of up to the first three hundred sixty-five (365) days. Ex-
43 cept as provided for in section 19-2601A, Idaho Code, during the period of
44 retained jurisdiction, the state board of correction shall be responsible
45 for determining the placement of the prisoner and such education, program-
46 ming and treatment as it determines to be appropriate. The prisoner will
47 remain committed to the board of correction if not affirmatively placed on

1 probation by the court. In extraordinary circumstances, where the court
2 concludes that it is unable to obtain and evaluate the relevant information
3 within the period of retained jurisdiction, or where the court concludes
4 that a hearing is required and is unable to obtain the defendant's presence
5 for such a hearing within such period, the court may decide whether to place
6 the defendant on probation or release jurisdiction within a reasonable time,
7 not to exceed thirty (30) days, after the period of retained jurisdiction has
8 expired. Placement on probation shall be under such terms and conditions
9 as the court deems necessary and appropriate. The court in its discretion
10 may sentence a defendant to more than one (1) period of retained jurisdic-
11 tion after a defendant has been placed on probation in a case or following
12 release from commitment to the department of juvenile corrections pursuant
13 to section 19-2601A, Idaho Code. In no case shall the board of correction
14 or its agent, the department of correction, be required to hold a hearing
15 of any kind with respect to a recommendation to the court for the grant or
16 denial of probation. Probation is a matter left to the sound discretion of
17 the court. Any recommendation made by the state board of correction to the
18 court regarding the prisoner shall be in the nature of an addendum to the
19 presentence report. The board of correction and its agency, the department
20 of correction, and their employees shall not be held financially responsible
21 for damages, injunctive or declaratory relief for any recommendation made to
22 the district court under this section.

23 5. If the crime involved is a felony and if judgment is withheld as pro-
24 vided in subsection 3. of this section or if judgment and a sentence of cus-
25 tody to the state board of correction is suspended at the time of judgment in
26 accordance with subsection 2. of this section or as provided by subsection
27 4. of this section, the court may place the defendant on probation. If the
28 court places the defendant on probation to the board of correction, the court
29 shall include in the terms and conditions of probation a requirement that
30 the defendant enter into and comply with an agreement of supervision with the
31 board of correction. The agreement of supervision shall include provisions
32 setting forth the potential sanctions for a violation of the terms or condi-
33 tions imposed and potential rewards for compliance with the terms and condi-
34 tions imposed, as such sanctions and rewards are set forth in rules of the
35 board of correction.

36 6. If the crime involved is a misdemeanor, indictable or otherwise, or
37 if the court should suspend any remaining portion of a jail sentence already
38 commuted in accordance with subsection 1. of this section, the court, if it
39 grants probation, may place the defendant on probation.

40 7. The period of probation ordered by a court under this section under
41 a conviction or plea of guilty for a misdemeanor, indictable or otherwise,
42 may be for a period of ~~not~~ no more than two (2) years; provided that the court
43 may extend the period of probation to include the period of time during which
44 the defendant is a participant in a problem solving court program and for a
45 period of up to one (1) year after a defendant's graduation or termination
46 from a problem solving court program. Under a conviction or plea of guilty
47 for a felony, the period of probation may be for a period of not more than the
48 maximum period for which the defendant might have been imprisoned.

49 SECTION 11. That Section 39-5210, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 39-5210. ELIGIBLE PROJECTS. (1) To be eligible for domestic violence
 2 grants pursuant to this chapter, a project must provide a safe house or
 3 refuge and a crisis line, except in the case of a project providing services
 4 to batterers. No funds may be granted to batterer programs from the domestic
 5 violence project account which are derived from marriage license or divorce
 6 fees. Other services which may be provided include, services that include
 7 but are not limited to:

8 ~~(1)~~ (a) Counseling;

9 ~~(2)~~ (b) Educational services for community awareness, for prevention
 10 of domestic violence and for the care, treatment and rehabilitation of
 11 parties to domestic violence;

12 ~~(3)~~ (c) Support groups;

13 ~~(4)~~ (d) Assistance in obtaining legal, medical, psychological or voca-
 14 tional services-; and

15 (e) Crime scene cleanup.

16 (2) No funds may be granted to batterer programs from the domestic vi-
 17 olence project account that are derived from marriage license or divorce
 18 fees.

19 SECTION 12. That Section 72-1025, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 72-1025. FINES -- REIMBURSEMENTS -- DISPOSITION. (1) In addition to
 22 any other fine ~~which that~~ may be imposed ~~upon~~ on each person found guilty of
 23 criminal activity, the court shall impose a fine or reimbursement according
 24 to the following schedule, unless the court orders that such fine or reim-
 25 bursement be waived only when the defendant is indigent and at the time of
 26 sentencing shows good cause for inability to pay and written findings to that
 27 effect are entered by the court:

28 (a) For each conviction or finding of guilt of each felony count, a fine
 29 or reimbursement of not less than seventy-five dollars (\$75.00) per
 30 felony count;

31 (b) For each conviction or finding of guilt of each misdemeanor count, a
 32 fine or reimbursement of thirty-seven dollars (\$37.00) per misdemeanor
 33 count;

34 (c) For each conviction or finding of guilt of an infraction under sec-
 35 tion 18-8001 or 49-301, Idaho Code, or for each first-time conviction
 36 or finding of guilt of an infraction under section 23-604 or 23-949,
 37 Idaho Code, a fine or reimbursement of thirty-seven dollars (\$37.00)
 38 per count;

39 (d) In addition to any fine or reimbursement ordered under paragraph
 40 (a) or (b) of this subsection, the court shall impose a fine or reim-
 41 bursement of not less than three hundred dollars (\$300) per count for
 42 any conviction or finding of guilt for any sex offense, including,
 43 but not limited to, offenses pursuant to sections 18-1506, 18-1507,
 44 18-1508, 18-1508A, 18-6101, and 18-6604, Idaho Code.

45 (2) Notwithstanding the provisions of section 19-4705, Idaho Code, the
 46 fines or reimbursements imposed under the provisions of this section shall
 47 be paid into the crime victims compensation account.

48 (3) Notwithstanding the provisions of section 19-4705, Idaho Code, the
 49 fines or reimbursements imposed pursuant to section 18-1507, Idaho Code,

1 shall be paid into the domestic violence project account authorized pursuant
2 to section 39-5212, Idaho Code.

3 SECTION 13. An emergency existing therefor, which emergency is hereby
4 declared to exist, this act shall be in full force and effect on and after
5 July 1, 2024.