

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 15
CHILDREN AND VULNERABLE ADULTS

18-1501. INJURY TO CHILDREN. (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one (1) year, or in the state prison for not less than one (1) year nor more than ten (10) years.

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

(3) A person over the age of eighteen (18) years commits the crime of injury to a child if the person transports a minor in a motor vehicle or vessel as defined in section [67-7003](#), Idaho Code, while under the influence of alcohol, intoxicating liquor, a controlled substance, or any combination thereof, in violation of section [18-8004](#) or [67-7034](#), Idaho Code. Any person convicted of violating this subsection is guilty of a misdemeanor. If a child suffers bodily injury or death due to a violation of this subsection, the violation will constitute a felony punishable by imprisonment for not more than ten (10) years, unless a more severe penalty is otherwise prescribed by law.

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

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

[18-1501, added 1977, ch. 304, sec. 3, p. 853; am. 1996, ch. 167, sec. 1, p. 552; am. 1997, ch. 306, sec. 1, p. 910; am. 2001, ch. 49, sec. 1, p. 91; am. 2005, ch. 151, sec. 1, p. 467.]

18-1502. BEER, WINE OR OTHER ALCOHOL AGE VIOLATIONS -- FINES. (a) Except as provided in subsection (e) of this section, whenever a person is in violation, on the basis of his age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of any beer, wine or other alcoholic beverage product, the violation shall constitute a misdemeanor.

(b) (1) Every person convicted of an infraction under this section shall be punished by a fine of three hundred dollars (\$300).

(2) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than two thousand dollars (\$2,000), or up

to thirty (30) days in jail or both. The third and subsequent conviction under this section shall be punished by a fine of not more than three thousand dollars (\$3,000), or up to sixty (60) days in jail or both.

(c) A conviction under this section shall not be used or considered in any manner for purposes of motor vehicle insurance.

(d) Whenever a person pleads guilty or is found guilty of violating any law pertaining to the possession, use, procurement, attempted procurement or dispensing of any beer, wine, or other alcoholic beverage, and such person was under twenty-one (21) years of age at the time of such violation, then in addition to the penalties provided in subsection (b) of this section:

(1) Upon a misdemeanor conviction, the court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(2) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(3) The person shall surrender his license or permit to the court.

(4) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(5) The court, in its discretion, may also order the person to undergo and complete an alcohol evaluation and to complete an alcohol treatment or education program in the same manner that persons sentenced pursuant to section [18-8005](#), Idaho Code, are required to undergo and complete.

(6) A person who has been found guilty of only one (1) violation of this section or section [23-604](#), Idaho Code, and does not have any alcohol or drug related findings of guilt, in this state or any state, within five (5) years of the commission of a violation of this section or section [23-604](#), Idaho Code, shall have such finding completely vacated and sealed by the court. The person shall have the responsibility for initiating this process, and the court shall provide a form for the convicted person to use. No fee shall be charged by the court for this process.

(e) (1) For the purposes of alcohol age violations under this section, the following violations shall constitute infractions:

(i) A first violation of section [23-604](#), Idaho Code;

(ii) A first violation of section [23-949](#), Idaho Code; and

(iii) A first violation of section [23-505](#)(1) and (2), Idaho Code, when an individual is not in actual physical control of the vehicle.

(2) Violations under this subsection that occur following the effective date of this act that constitute misdemeanors under subsection (b) (2) of this section, shall begin as a first misdemeanor.

388; am. 1990, ch. 280, sec. 1, p. 785; am. 1994, ch. 133, sec. 1, p. 305; am. 1998, ch. 312, sec. 1, p. 1033; am. 2016, ch. 196, sec. 1, p. 551; am. 2016, ch. 344, sec. 1, p. 987.]

18-1502B. POSSESSION OF INHALANTS BY MINORS. Whenever a person under the age of eighteen (18) years is in possession and uses an aerosol spray product or other inhalant, that is not used pursuant to the instructions or prescription of a licensed health care provider or that is not used pursuant to the manufacturer's label instructions, for the purpose of becoming under the influence of such substance; such person shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of three hundred dollars (\$300), or by thirty (30) days in a juvenile detention facility or by both or may be subject to the provisions of [chapter 5, title 20](#), Idaho Code.

For the purposes of this section, the term "inhalant" means any glue, cement or other substance containing one (1) or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate or their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene or xylene or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

[18-1502B, added 1993, ch. 154, sec. 1, p. 390; am. 2004, ch. 23, sec. 4, p. 27.]

18-1505. ABUSE, EXPLOITATION OR NEGLECT OF A VULNERABLE ADULT. (1) Any person who abuses or neglects a vulnerable adult under circumstances likely to produce great bodily harm or death is guilty of a felony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar (\$25,000) fine.

(2) Any person who abuses or neglects a vulnerable adult under circumstances other than those likely to produce great bodily harm or death is guilty of a misdemeanor.

(3) Any person who exploits a vulnerable adult is guilty of a misdemeanor, unless the monetary damage from such exploitation exceeds one thousand dollars (\$1,000), in which case the person is guilty of a felony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar (\$25,000) fine.

(4) As used in this section:

(a) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury. Intentional abuse shall be punished under subsection (1) or (2) of this section depending upon the harm inflicted. Abuse by negligent infliction shall only be punished under subsection (2) of this section.

(b) "Caretaker" means any individual or institution that is responsible by relationship, contract or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(c) "Exploitation" or "exploit" means an action which may include, but is not limited to, the unjust or improper use of a vulnerable adult's fi-

nancial power of attorney, funds, property or resources by another person for profit or advantage.

(d) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care to a vulnerable adult, in such a manner as to jeopardize the life, health or safety of the vulnerable adult.

(e) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person, funds, property or resources.

(5) Nothing in this section shall be construed to mean a person is abused, neglected or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this section be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

(6) Nothing in this section shall be construed to mean that an employer or supervisor of a person who abuses, exploits or neglects a vulnerable adult may be prosecuted unless there is direct evidence of a violation of this statute by the employer or supervisor.

[18-1505, added 1994, ch. 136, sec. 3, p. 309; am. 2005, ch. 166, sec. 1, p. 506; am. 2008, ch. 209, sec. 1, p. 662; am. 2009, ch. 71, sec. 1, p. 206; am. 2016, ch. 147, sec. 1, p. 415.]

18-1505A. ABANDONING A VULNERABLE ADULT. (1) Any person who abandons a vulnerable adult, as that term is defined in section [18-1505](#), Idaho Code, in deliberate disregard of the vulnerable adult's safety or welfare, regardless of whether the vulnerable adult suffered physical harm from the act of abandonment, shall be guilty of a felony and shall be imprisoned in the state prison for a period not in excess of five (5) years, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment. It shall not be a defense to prosecution under the provisions of this section that the perpetrator lacked the financial ability or means to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult.

(2) As used in this section "abandon" means the desertion or willful forsaking of a vulnerable adult by any individual, caretaker as defined by subsection (4) (b) of section [18-1505](#), Idaho Code, or entity which has assumed responsibility for the care of the vulnerable adult by contract, receipt of payment of care, any relationship arising from blood or marriage wherein the vulnerable adult has become the dependent of another or by order of a court of competent jurisdiction; provided that abandon shall not mean the termination of services to a vulnerable adult by a physician licensed under [chapter 18, title 54](#), Idaho Code, or anyone under his direct supervision, where the physician determines, in the exercise of his professional judgment, that termination of such services is in the best interests of the patient.

[18-1505A, added 1993, ch. 179, sec. 1, p. 460; am. 1994, ch. 136, sec. 4, p. 309; am. 2005, ch. 166, sec. 2, p. 507.]

18-1505B. SEXUAL ABUSE AND EXPLOITATION OF A VULNERABLE ADULT. (1) It is a felony for any person, with the intent of arousing, appealing to or gratifying the lust, passion or sexual desires of such person, a vulnerable adult or a third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a vulnerable adult including, but not limited to: genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex;

(b) Involve a vulnerable adult in any act of bestiality or sado-masochism as defined in section [18-1507](#), Idaho Code; or

(c) Cause or have sexual contact with a vulnerable adult, not amounting to lewd conduct as defined in paragraph (a) of this subsection.

(2) For the purposes of this section:

(a) "Commercial purpose" means the intention, objective, anticipation or expectation of monetary gain or other material consideration, compensation, remuneration or profit.

(b) "Sexual contact" means any physical contact between a vulnerable adult and any person or between vulnerable adults, which is caused by the actor, or the actor causing the vulnerable adult to have self-contact;

(c) "Sexually exploitative material" means any image, photograph, motion picture, video, print, negative, slide or other mechanically, electronically, digitally or chemically produced or reproduced visual material that shows a vulnerable adult engaged in, participating in, observing or being used for explicit sexual conduct, or showing a vulnerable adult engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling; and

(d) "Vulnerable adult" is as defined in section [18-1505](#), Idaho Code.

(3) Sexual abuse of a vulnerable adult is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed twenty-five (25) years or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both such fine and imprisonment.

(4) It shall be a felony for any person to commit sexual exploitation of a vulnerable adult if, for any commercial purpose, he knowingly:

(a) Causes, induces or permits a vulnerable adult to engage in or be used in any explicit sexual conduct as defined in section [18-1507](#), Idaho Code; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses or distributes sexually exploitative material.

(5) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(6) Sexual exploitation of a vulnerable adult shall be punishable by imprisonment in the state prison for a period not to exceed fifteen (15) years or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both such fine and imprisonment.

[18-1505B, added 2005, ch. 216, sec. 1, p. 689; am. 2009, ch. 100, sec. 1, p. 309; am. 2012, ch. 269, sec. 1, p. 751.]

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

- (a) Solicit a minor child under the age of sixteen (16) years to participate in a sexual act;
- (b) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in section [18-1508](#), Idaho Code;
- (c) Make any photographic or electronic recording of such minor child;
- or
- (d) Induce, cause or permit a minor child to witness an act of sexual conduct.

(2) For the purposes of this section "solicit" means any written, verbal, or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

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

(4) For the purposes of this section "sexual conduct" means human masturbation, sexual intercourse, sadomasochistic abuse, or any touching of the genitals or pubic areas of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(5) Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.

[18-1506, added 1982, ch. 192, sec. 1, p. 519; am. 1984, ch. 63, sec. 1, p. 112; am. 1987, ch. 178, sec. 1, p. 354; am. 1988, ch. 329, sec. 1, p. 991; am. 1992, ch. 145, sec. 1, p. 439; am. 2006, ch. 178, sec. 3, p. 545; am. 2008, ch. 240, sec. 1, p. 721.]

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

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

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

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

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

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

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

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

(3) Any person convicted of a violation of this section shall be imprisoned in the state prison for a term of not more than life.

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

[18-1506A, added 1990, ch. 210, sec. 1, p. 467; am. 2006, ch. 178, sec. 4, p. 546.]

18-1506B. FEMALE GENITAL MUTILATION OF A CHILD -- EXCLUSIONS -- PENALTIES -- DEFINITION. (1) Except as provided in subsection (4) of this section, whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora, labia minora, or clitoris of a child shall be guilty of a felony.

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

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

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

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

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

(5) In applying subsection (4) (a) of this section, no account shall be taken of the effect on the person on whom the operation is to be performed or any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.

(6) Any person convicted of a violation of this section shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

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

[18-1506B, added 2019, ch. 130, sec. 1, p. 465; am. 2020, ch. 101, sec. 1, p. 271.]

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

(a) "Bestiality" means a sexual connection in any manner between a human being and any animal.

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

(c) "Erotic fondling" means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved. "Erotic fondling" shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(d) "Erotic nudity" means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.

(e) "Explicit sexual conduct" means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.

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

(g) "Sadomasochism" means:

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

(ii) The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

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

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

(j) "Sexually exploitative material" means any image, photograph, motion picture, video, print, negative, slide, or other mechanically, electronically, digitally or chemically produced or reproduced visual material which shows a child engaged in, participating in, observing, or being used for explicit sexual conduct, or showing a child engaging in, participating in, observing or being used for explicit sexual conduct, in actual time, including, but not limited to, video chat, webcam sessions or video calling.

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

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

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

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

(d) Distributes through any means including, but not limited to, mail, physical delivery or exchange, use of a computer or any other electronic or digital method, any sexually exploitative material. Distribution of sexually exploitative material does not require a pecuniary transaction or exchange of interests in order to complete the offense.

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

(4) The sexual exploitation of a child pursuant to subsections (2) (b), (c) and (d) of this section is a felony and shall be punishable by imprisonment in the state prison for a term not to exceed thirty (30) years or by a fine not to exceed fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

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

(a) The minor depicted in the content distributed the content in such a way that the minor intended the person found to be in possession to receive it;

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

(c) The person found to be in possession of the content did not use coercion, manipulation or fraud to obtain possession of the content.

(6) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

[18-1507, added 1983, ch. 256, sec. 1, p. 679; am. 1987, ch. 177, sec. 1, p. 352; am. 1992, ch. 145, sec. 2, p. 439; am. 2006, ch. 178, sec. 5, p. 547; am. 2012, ch. 269, sec. 2, p. 752; am. 2016, ch. 377, sec. 2, p. 1103.]

18-1507A. SEXUAL EXPLOITATION OF A CHILD BY ELECTRONIC MEANS. (1) A minor child who, without being induced by coercion, manipulation or fraud, creates or causes to be created any photographic, electronic or video content of said minor child that would be characterized under any of the classifications defined in section [18-1507](#)(1) (c) through (j), Idaho Code, and knowingly and willfully distributes it to another person or persons through electronic or other means or causes it to appear in a form where the distributing minor has reason to believe another will view it is guilty of a

misdemeanor provided that the image was communicated in a form that there was a single recipient.

(2) A minor child who, without being induced by coercion, manipulation or fraud, creates or causes to be created any photographic, electronic or video content of said minor child that would be characterized under any of the classifications defined in section [18-1507](#)(1)(c) through (j), Idaho Code, and knowingly and willfully distributes it in such a way and through such a medium that the minor intended or had reason to believe that multiple parties would receive or have access to the image:

- (a) Is guilty of a misdemeanor on the first adjudicated offense; and
- (b) Is guilty of a felony on the second or subsequent adjudicated offense.

(3) A minor who is found to be in knowing and willful possession of the content created and sent as described in subsection (1) or (2) of this section is guilty of a misdemeanor if the content depicts a minor who is not greater than three (3) years younger than the minor who is found to be in possession. A minor who is found to be in knowing and willful possession of content described in this subsection that depicts a minor greater than three (3) years younger than themselves is guilty of a violation of section [18-1507](#)(2)(a), Idaho Code.

(4) A minor who is found to be in possession of content described in subsection (1) or (2) of this section who knowingly and willfully transmits or displays the image to one (1) or more third parties:

- (a) Is guilty of a misdemeanor on the first adjudicated offense; and
- (b) Is guilty of a felony on any second or subsequent adjudicated offense.

(5) A minor who receives content under circumstances described in subsection (1) or (2) of this section and distributes or threatens to distribute the image for the purposes of coercing any action, causing any embarrassment or otherwise controlling or manipulating the sender is guilty of a felony.

(6) A minor who receives content under circumstances described in subsection (1) or (2) of this section and distributes the image to a parent, guardian, one having custody of the minor or a law enforcement official for the purpose of reporting the activity is not guilty of a crime under the provisions of this section.

(7) Proceedings for a violation of the provisions of this section shall fall under the jurisdiction of the juvenile corrections act pursuant to section [20-505](#)(1), Idaho Code.

[18-1507A, added 2016, ch. 377, sec. 1, p. 1103.]

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

[(18-1508) I.C., sec. 18-6607, as added by 1973, ch. 1, sec. 1, p. 3; am. and redesignated 1984, ch. 63, sec. 2, p. 112; am. 1992, ch. 145, sec. 3, p. 441.]

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

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of explicit sexual conduct as defined in section [18-1507](#), Idaho Code; or

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

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

(d) Make any photographic or electronic recording of such minor child.

(2) For the purpose of subsection (b) of this section, "solicit" means any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

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

(4) Any person guilty of a violation of the provisions of subsection (1) (a) of this section shall be imprisoned in the state prison for a period not to exceed life.

(5) Any person guilty of a violation of the provisions of subsections (1) (b), (1) (c), or (1) (d) of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.

[18-1508A, added 1992, ch. 249, sec. 1, p. 733; am. 2006, ch. 178, sec. 7, p. 549.]

18-1509. ENTICING OF CHILDREN. (1) A person shall be guilty of a misdemeanor if that person attempts to persuade, or persuades, whether by words or actions or both, a minor child under the age of sixteen (16) years to either:

(a) Leave the child's home or school; or

(b) Enter a vehicle or building; or

(c) Enter a structure or enclosed area, or alley, with the intent that the child shall be concealed from public view;

while the person is acting without the authority of (i) the custodial parent of the child, (ii) the state of Idaho or a political subdivision thereof or (iii) one having legal custody of the minor child. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of aid or assistance to a minor child.

(2) Every person who is convicted of a violation of the provisions of this section shall be punished by imprisonment in the county or municipal jail for not more than six (6) months or by a fine of not more than one thou-

sand dollars (\$1,000) or by both such fine and imprisonment. A person convicted a second or subsequent time of violating the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary for a period of time of not more than five (5) years.

[18-1509, added 1985, ch. 81, sec. 1, p. 156.]

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

(2) Any person who is convicted of a violation of this section shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years.

(3) It shall not constitute a defense against any charge or violation of this section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this section.

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

(5) The offense is committed in the state of Idaho for purposes of determining jurisdiction if the transmission that constitutes the offense either originates in or is received in the state of Idaho.

[18-1509A, added 2003, ch. 145, sec. 1, p. 419; am. 2012, ch. 270, sec. 1, p. 764.]

18-1510. PROVIDING SHELTER TO RUNAWAY CHILDREN. (1) A person who knowingly or intentionally provides housing or other accommodations to a child seventeen (17) years of age or younger without the authority of: (a) the custodial parent or guardian of the child; (b) the state of Idaho or a political subdivision thereof; or (c) the one having legal custody of the child shall be guilty of a misdemeanor. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of emergency aid or assistance to a minor child. It shall be an affirmative defense to the provisions of this section that the person providing housing or other accommodations to the child has notified the custodial parent or guardian or the county sheriff or city police of the child's whereabouts. It shall also be an affirmative defense to the provisions of this section that the person providing housing or other accommodations to the child notices reasonable evidence that the child has been abused by the custodial parent or guardian.

(2) A person convicted of a violation of the provisions of this section shall be punished by imprisonment for a period not in excess of six (6) months, a fine not in excess of five thousand dollars (\$5,000) or by both such fine and imprisonment. Additionally, any real property utilized in viola-

tion of the provisions of this section may be declared a public nuisance pursuant to [chapter 1, title 52](#), Idaho Code.

[18-1510, added 1989, ch. 155, sec. 11, p. 389.]

18-1511. SALE OR BARTER OF CHILD FOR ADOPTION OR OTHER PURPOSE PENALIZED -- ALLOWED EXPENSES. Any person or persons who shall sell or barter any child for adoption or for any other purpose, shall be guilty of a felony, and upon conviction shall be punished by imprisonment in the state penitentiary for not more than fourteen (14) years, or by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

Provided however, this section shall not prohibit any person, or adoption agency from providing, in addition to legal and medical costs, reasonable maternity and living expenses during the pregnancy and for a period not to exceed six (6) weeks post partum based upon demonstrated financial need.

Any person or agency, seeking to provide financial assistance in excess of five hundred dollars (\$500) shall do so after informally submitting to a court of competent jurisdiction, a verified financial plan outlining proposed expenditures. The court may approve or amend such a proposal. Only after court approval shall assistance totaling more than five hundred dollars (\$500) become available to the birth parent. A prospective adoptive parent, or another person acting on behalf of a prospective adoptive parent, shall make payments for allowed expenses only to third party vendors, as is reasonably practical. All actual expenditures shall be presented by verified affidavit of counsel or the agency at the time of the adoption finalization.

No financial assistance to a birth parent shall exceed the sum of two thousand dollars (\$2,000) unless otherwise authorized by the court. The financial assistance contemplated by this section shall be considered a charitable gift, not subject to recovery under the terms of section [16-1515](#), Idaho Code.

[I.C., sec. 18-1511, as added by 1972, ch. 336, sec. 1, p. 873; am. 2000, ch. 172, sec. 1, p. 441.]

18-1512. MEDICAL BILLS PAYMENT FOR CHILD TO BE ADOPTED OR MOTHER AN EXCEPTION. Paying of medical bills, either for a child to be adopted or for the mother of such child, shall not be considered a violation of this act.

[I.C., sec. 18-1512, as added by 1972, ch. 336, sec. 1, p. 873.]

18-1512A. ADVERTISING FOR ADOPTION -- PROHIBITED ACTS. (1) Unless the context clearly requires otherwise in this section, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast or the electronic medium.

(2) No person or entity shall cause to be published for circulation or broadcast on a radio or television station within the geographic borders of the state of Idaho an advertisement or notice of a child or children offered or wanted for adoption or shall hold himself out through such advertisement or notice as having the ability to place, locate, dispose or receive a child or children for adoption, unless the person or entity is a duly authorized agent, contractee or employee of the department of health and welfare or an authorized children's agency or institution licensed by the department of health and welfare to care for and place children.

(3) A violation of subsection (2) of this section is a matter affecting the public interest for the purpose of applying [chapter 6, title 48](#), Idaho Code. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying [chapter 6, title 48](#), Idaho Code.

(4) Nothing herein is intended to prohibit an attorney licensed to practice in the state of Idaho from advertising his or her ability to practice or provide services related to the adoption of children.

(5) Nothing herein is intended to prohibit physicians and other health care providers who are licensed to practice in the state of Idaho from assisting or providing natural and adoptive parents with medical care necessary to initiate and complete adoptive placements.

[18-1512A, added 1988, ch. 226, sec. 1, p. 439; am. 2000, ch. 174, sec. 1, p. 442.]

18-1513. OBSCENE MATERIALS -- DISSEMINATION TO MINORS -- POLICY. It is hereby declared to be the policy of the legislature to restrain the distribution, promotion, or dissemination of obscene material, or of material harmful to minors, or the performance of obscene performances, or performances harmful to minors. It is found that such materials and performances are a contributing factor to crime, to juvenile crime, and also a basic factor in impairing the ethical and moral development of our youth.

[I.C., sec. 18-1513, as added by 1972, ch. 336, sec. 1, p. 873.]

18-1514. OBSCENE MATERIALS -- DEFINITIONS. The following definitions are applicable to this act:

1. "Minor" means any person less than eighteen (18) years of age.
2. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
3. "Sexual conduct" means any act of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, the breast.
4. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
5. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one who is nude or so clothed.
6. "Harmful to minors" includes in its meaning one or both of the following:
 - (a) The quality of any material or of any performance or of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:
 - (1) appeals to the prurient interest of minors as judged by the average person, applying contemporary community standards; and
 - (2) depicts or describes representations or descriptions of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse

which are patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors and includes, but is not limited to, patently offensive representations or descriptions of:

(i) intimate sexual acts, normal or perverted, actual or simulated; or
 (ii) masturbation, excretory functions or lewd exhibition of the genitals or genital area. Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in context in which it is used, possesses serious literary, artistic, political or scientific value for minors, according to prevailing standards in the adult community, with respect to what is suitable for minors.

(b) The quality of any material or of any performance, or of any description or representation, in whatever form, which, as a whole, has the dominant effect of substantially arousing sexual desires in persons under the age of eighteen (18) years.

7. "Material" means anything tangible which is harmful to minors, whether derived through the medium of reading, observation or sound.

8. "Performance" means any play, motion picture, dance or other exhibition performed before an audience.

9. "Promote" means to manufacture, issue, sell, give, provide, deliver, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same.

10. "Knowingly" means having general knowledge of, or reason to know, or a belief or reasonable ground for belief which warrants further inspection or inquiry.

[I.C., sec. 18-1514, as added by 1972, ch. 336, sec. 1, p. 874; am. 1976, ch. 81, sec. 15, p. 267.]

18-1515. DISSEMINATING MATERIAL HARMFUL TO MINORS -- DEFINED -- PENALTY. A person is guilty of disseminating material harmful to minors when:

1. He knowingly gives or makes available to a minor or promotes or possesses with intent to promote to minors, or he knowingly sells or loans to a minor for monetary consideration:

(a) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors; or

(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or

(c) Any other material harmful to minors.

2. With reference to a motion picture, show or other presentation which depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he knowingly:

(a) Exhibits such motion picture, show or other presentation to a minor for a monetary consideration; or

(b) Sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or

(c) Admits a minor for a monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or

(d) Exhibits such motion picture, show or other presentation to a minor not for a monetary consideration; or

(e) Gives without monetary consideration to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture, show, or other presentation.

Disseminating material harmful to minors is a misdemeanor punishable by confinement in the county jail not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000), or by both such fine and jail sentence.

[I.C., sec. 18-1515, as added by 1972, ch. 336, sec. 1, p. 875.]

18-1516. MISREPRESENTATIONS -- PARENTHOOD OR AGE -- MISDEMEANOR. A person is guilty of a misdemeanor when:

1. He knowingly misrepresents that he is a parent or guardian of a minor for the purpose of obtaining admission of any minor to any motion picture, show, or other presentation which is harmful to minors as defined in section [18-1515](#), subsection 2.

2. If he is a minor and misrepresents his age for the purpose of obtaining admission to any motion picture, show, or other presentation which is harmful to minors as defined in section [18-1515](#), subsection 2.

[I.C., sec. 18-1516, as added by 1972, ch. 336, sec. 1, p. 876.]

18-1517. DISSEMINATING MATERIAL HARMFUL TO MINORS -- DEFENSES. 1. In any prosecution for disseminating material harmful to minors, it is an affirmative defense that:

(a) The defendant had reasonable cause to believe that the minor involved was eighteen (18) years old or more, or such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years of age or older.

(b) The minor involved was accompanied by his parent or legal guardian, or by an adult and the adult represented that he was the minor's parent or guardian or an adult and signed a written statement to that effect.

(c) The defendant was the parent or guardian of the minor involved.

(d) The defendant was a bona fide school, college, university, museum or public library, or was acting in his capacity as an employee of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization.

[I.C., sec. 18-1517, as added by 1972, ch. 336, sec. 1, p. 876.]

18-1517A. HIRING, EMPLOYING, ETC., MINOR TO ENGAGE IN CERTAIN ACTS -- PENALTY. Every person who, with knowledge that a person is a minor under eighteen (18) years of age, or who, while in the possession of such facts that he should reasonably know that such person is a minor under eighteen (18) years of age, hires, employs, or uses such minor to do or assist in doing any of the acts described in section [18-4103](#), Idaho Code, is guilty of a misdemeanor. If such person has previously been convicted of a violation of this section he shall be guilty of a felony.

[I.C., sec. 18-1517A, as added by 1973, ch. 305, sec. 18, p. 655.]

18-1518. TIE-IN SALES OF PROHIBITED MATERIALS -- MISDEMEANOR. No person shall as a condition to a sale or delivery for resale of any book, paper, magazine, periodical, or other material require that the purchaser or consignee receive for resale any article, the promotion of which is prohibited by this act. Any violation hereof is a misdemeanor.

[I.C., sec. 18-1518, as added by 1972, ch. 336, sec. 1, p. 876.]

18-1519. EACH PROHIBITED ITEM DISSEMINATED CONSTITUTES SEPARATE OFFENSE. If more than one (1) article or item of material prohibited under this statute, is sold, given, advertised for sale, distributed commercially or promoted, in violation of the provisions of this act by the same person, each such sale, gift, advertisement, distribution, or promotion shall constitute a separate offense.

[I.C., sec. 18-1519, as added by 1972, ch. 336, sec. 1, p. 876.]

18-1520. DISTRICT COURTS -- INJUNCTIONS -- TRIAL -- ORDERS OF INJUNCTION. The district courts have jurisdiction to enjoin the sale or distribution of material harmful to minors, and to direct the seizure and destruction of the same, as hereinafter specified:

1. The prosecuting attorney of any county in which a person, firm, or corporation sells, distributes or promotes, or is about to sell, distribute or promote, or has in his possession with intent to sell, distribute or promote, or is about to acquire possession with intent to sell, distribute or promote, any material harmful to minors, may maintain an action in the name of the state of Idaho for an injunction against such person, firm, or corporation in the district court of that county to prevent the sale, distribution or promotion, or further sale, distribution, or promotion, or the acquisition or possession of any material harmful to minors.

2. The person, firm or corporation sought to be enjoined shall be entitled to a trial of the issues within one (1) day after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial.

3. In the event that a final order or judgment of injunction be entered in favor of the state of Idaho and against the person, firm, or corporation sought to be enjoined, such final order or judgment shall contain a provision directing the person, firm or corporation to cease and desist from the sale of all materials adjudged to be harmful to minors.

4. Such final order or judgment of injunction shall not enjoin or prohibit a person, firm or corporation from sale, distribution or promotion of material harmful to minors to persons other than minors, nor shall it order the seizure and destruction of material harmful to minors unless the court finds and concludes that the person, firm or corporation has been selling, distributing or promoting, or intends to sell, distribute or promote such material to minors.

5. In any action brought as herein provided the state of Idaho shall not be required to file any undertaking before the issuance of an injunction order, shall not be liable for costs, and shall not be liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm or corporation sought to be enjoined.

6. Every person, firm, or corporation who sells, distributes, or promotes, or acquires possession with intent to sell, distribute, or promote any material harmful to minors, after the service upon him of a summons and complaint in an action brought pursuant to this section, is chargeable with knowledge of the contents thereof.

[I.C., sec. 18-1520, as added by 1972, ch. 336, sec. 1, p. 877.]

18-1521. UNIFORM ENFORCEMENT -- ABROGATION OF EXISTING ORDINANCES -- FURTHER LOCAL ORDINANCES BANNED. In order to make the application and enforcement of this act uniform throughout the state, it is the intent of the legislature to preempt, to the exclusion of city and county governments, the regulation of the sale, loan, distribution, dissemination, presentation or exhibition to a minor of material which is obscene or which is harmful to minors and depicts in whole or in part nudity, sexual conduct or sado-masochistic abuse. To that end, it is hereby declared that every city or county ordinance adopted before the effective date of this act which deals with the regulation of the sale, loan, distribution, dissemination, presentation or exhibition to a minor of material which is obscene or which is harmful to minors and depicts in whole or in part nudity, sexual conduct or sado-masochistic abuse, shall stand abrogated and unenforceable on or after such effective date; and that no city or county government shall have the power to adopt any ordinance relating to the regulation of the sale, loan, distribution, dissemination, presentation or exhibition to a minor of material which is obscene or which is harmful to minors and depicts in whole or in part nudity, sexual conduct or sado-masochistic abuse, on or after such effective date.

[I.C., sec. 18-1521, as added by 1972, ch. 336, sec. 1, p. 877.]

18-1522. UNAUTHORIZED SCHOOL BUS ENTRY -- NOTICE. (1) A person shall be guilty of a misdemeanor if that person:

- (a) Enters a school bus with intent to commit a crime;
- (b) Enters a school bus and disrupts or interferes with the driver; or
- (c) Enters a school bus and refuses to disembark after being ordered to do so by the driver.

(2) School districts shall place notices at the entrance to school buses which warn against unauthorized school bus entry.

[18-1522, added 1999, ch. 159, sec. 1, p. 437.]

18-1523. MINORS -- TATTOOING, BRANDING, TANNING DEVICES AND BODY PIERCING. (1) As used in this section:

- (a) "Body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.
- (b) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument for the purpose of decoration or for some other nonmedical purpose.
- (c) "Minor" means a person under the age of eighteen (18) years but does not include a person who is an emancipated minor.
- (d) "Physician" means any person who holds a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathic medicine as defined by section [54-1803](#), Idaho Code.

(e) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers used for tanning of the skin including, but not limited to, sunlamps, tanning booths or tanning beds, but not including:

- (i) Devices for personal use in a private residence;
- (ii) Phototherapy devices providing therapeutic benefits to patients receiving medically supervised treatment prescribed by and under the direct supervision of a physician; or
- (iii) Devices used to apply chemicals to the skin to create an artificial tan, commonly referred to as spray, spray-on, mist-on or sunless tans.

(f) "Tattoo" means one (1) or more of the following but does not include any mark or design done for a medical purpose:

- (i) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or
- (ii) An indelible design made on the body of another person by production of scars other than by branding.

(2) No person shall knowingly tattoo, brand, facilitate use of a tanning device or perform body piercing on any minor under the age of fourteen (14) years.

(3) No person shall knowingly tattoo, brand, facilitate use of a tanning device or perform body piercing on a minor between the ages of fourteen (14) and eighteen (18) years unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing or facilitating the use of a tanning device on the minor, or in the presence of an employee or agent of such person.

(4) Notwithstanding the foregoing, it shall not be a violation of this section for a physician to use radiation devices approved by the federal food and drug administration for in-office treatment of a minor's medical condition or to facilitate a minor's use of a tanning device where such use is authorized by a physician's prescription.

(5) A person who violates this section is guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500). If there is a subsequent violation of this section within one (1) year of the initial violation, such person shall be fined not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

[18-1523, added 2004, ch. 127, sec. 1, p. 436; am. 2015, ch. 91, sec. 1, p. 225.]