

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 45
KIDNAPING

18-4501. KIDNAPING DEFINED. Every person who wilfully:

1. Seizes, confines, inveigles or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of this state, or in any way held to service or kept or detained against his will; or,

2. Leads, takes, entices away or detains a child under the age of sixteen (16) years, with intent to keep or conceal it from its custodial parent, guardian or other person having lawful care or control thereof, or with intent to steal any article upon the person of the child; or,

3. Abducts, entices or by force or fraud unlawfully takes or carries away another at or from a place without the state, or procures, advises, aids or abets such an abduction, enticing, taking or carrying away, and afterwards sends, brings, has or keeps such person, or causes him to be kept or secreted within this state; or,

4. Seizes, confines, inveigles, leads, takes, entices away or kidnaps another against his will to extort money, property or any other thing of value or obtain money, property or reward or any other thing of value for the return or disposition of such person is guilty of kidnaping.

[18-4501, added 1972, ch. 336, sec. 1, p. 936; am. 1985, ch. 121, sec. 1, p. 296.]

18-4502. FIRST DEGREE KIDNAPPING -- RANSOM. Any kidnaping committed for the purpose of obtaining money, property or any other thing of value for the return or disposition of such person kidnapped, or committed for the purpose of raping, or committing the infamous crime against nature, or committing serious bodily injury upon the person kidnapped, or committing any lewd and lascivious act upon any child under the age of sixteen (16) years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of any person, shall be kidnaping in the first degree.

[18-4502, added 1972, ch. 336, sec. 1, p. 937; am. 1978, ch. 254, sec. 1, p. 555; am. 1981, ch. 321, sec. 1, p. 671.]

18-4503. SECOND DEGREE KIDNAPING WHEN NOT FOR RANSOM. Every other kidnaping committed shall be kidnaping in the second degree.

[18-4503, added 1972, ch. 336, sec. 1, p. 937.]

18-4504. PUNISHMENT -- LIBERATION OF KIDNAPPED PERSON. 1. Every person guilty of kidnaping in the first degree shall suffer death or be punished by imprisonment in the state prison for life, provided a sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty as required under the provisions of section [18-4504A](#), Idaho Code, and provided further that the sentence of death shall not be imposed if prior to its imposition the kidnapped person has been liberated unharmed.

2. Kidnapping in the second degree is punishable by imprisonment in the state prison not less than one (1) nor more than twenty-five (25) years.

[18-4504, added 1972, ch. 336, sec. 1, p. 937; am. 1980, ch. 298, sec. 1, p. 775; am. 2000, ch. 126, sec. 1, p. 300.]

18-4504A. NOTICE OF INTENT TO SEEK DEATH PENALTY. A sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty with the court and served the notice upon the defendant or his attorney of record no later than thirty (30) days after entry of a plea. A notice of intent to seek the death penalty may be withdrawn at any time prior to the imposition of sentence.

[18-4504A, added 2000, ch. 126, sec. 2, p. 300.]

18-4505. INQUIRY INTO MITIGATING OR AGGRAVATING CIRCUMSTANCES -- SENTENCE IN KIDNAPPING CASES -- STATUTORY AGGRAVATING CIRCUMSTANCES -- JUDICIAL FINDINGS. 1. After a plea or verdict of guilty, where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the oral or written suggestion of either party that there are circumstances which may be properly taken into view either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct.

2. Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless a notice of intent to seek the death penalty was filed and served as provided in section [18-4504A](#), Idaho Code, and the court finds at least one (1) statutory aggravating circumstance. Where the court finds a statutory aggravating circumstance the court shall sentence the defendant to death unless the court finds that mitigating circumstances which may be presented outweigh the gravity of any aggravating circumstance found and make imposition of death unjust.

3. In all cases in which the death penalty may be imposed, the court shall, after conviction, order a presentence investigation to be conducted according to such procedures as are prescribed by law and shall thereafter convene a sentencing hearing for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. At such hearing, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Should any party present aggravating or mitigating evidence which has not previously been disclosed to the opposing party or parties, the court shall, upon request, adjourn the hearing until the party desiring to do so has had a reasonable opportunity to respond to such evidence. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing. Evidence offered at trial but not admitted may be repeated or amplified if necessary to complete the record.

4. Upon the conclusion of the evidence and arguments in mitigation and aggravation the court shall make written findings setting forth any statutory aggravating circumstance found. Further, the court shall set forth in writing any mitigating factors considered and, if the court finds that mitigating circumstances outweigh the gravity of any aggravating circumstance found so as to make unjust the imposition of the death penalty, the court shall detail in writing its reasons for so finding.

5. Upon making the prescribed findings, the court shall impose sentence within the limits fixed by law.

6. The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(a) The victim of the kidnapping was subjected by the kidnapper or those acting in concert with him to torture, maiming or the intentional infliction of grievous mental or physical injury.

(b) The defendant knowingly created a great risk of death to any person, including the kidnapped.

(c) The kidnapping was committed for remuneration or the promise of remuneration or the defendant employed another to commit the kidnapping for remuneration or the promise of remuneration.

(d) The kidnapping was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(e) The kidnapping was committed for the purpose of murdering or maiming a witness or potential witness in a judicial proceeding.

[18-4505, added 1980, ch. 298, sec. 2, p. 775; am. 2000, ch. 126, sec. 3, p. 300.]

18-4506. CHILD CUSTODY INTERFERENCE DEFINED -- DEFENSES -- PUNISHMENT. 1. A person commits child custody interference if the person, whether a parent or other, or agent of that person, intentionally and without lawful authority:

(a) Takes, entices away, keeps or withholds any minor child from a parent or another person or institution having custody, joint custody, visitation or other parental rights, whether such rights arise from temporary or permanent custody order, or from the equal custodial rights of each parent in the absence of a custody order; or

(b) Takes, entices away, keeps or withholds a minor child from a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights.

2. It shall be an affirmative defense to a violation of the provisions of subsection 1. of this section that:

(a) The action is taken to protect the child from imminent physical harm;

(b) The action is taken by a parent fleeing from imminent physical harm to himself;

(c) The action is consented to by the lawful custodian of the child; or

(d) The child is returned within twenty-four (24) hours after expiration of an authorized visitation privilege.

3. A violation of the provisions of subsection 1. of this section shall be a felony, unless the defendant did not take the child outside the state, and the child was voluntarily returned unharmed prior to the defendant's arrest in which case the violation shall be reduced to a misdemeanor.

4. Any reasonable expenses incurred by a lawful custodian in locating or attempting to locate a child taken in violation of the provisions of subsection 1. of this section may be assessed against the defendant at the court's discretion in accordance with [chapter 53, title 19](#), Idaho Code.

[18-4506, added 1987, ch. 88, sec. 1, p. 168.]

18-4507. SHORT TITLE. Sections [18-4507](#), [18-4508](#), [18-4509](#), [18-4510](#) and [18-4511](#), Idaho Code, may be cited as the "Missing Child Reporting Act."

[18-4507, added 1988, ch. 281, sec. 1, p. 912.]

18-4508. DEFINITIONS. As used in sections [18-4507](#), [18-4508](#), [18-4509](#), [18-4510](#) and [18-4511](#), Idaho Code:

(1) "Law enforcement agency" means any law enforcement agency of the state or any political subdivision of the state, including the Idaho state police and any municipal or county sheriff department.

(2) "Missing child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as abducted or lost.

(3) "Runaway child" means an individual who is less than eighteen (18) years of age who is reported to any law enforcement agency as a runaway.

(4) "State registrar" means the employee so designated by the director of the department of health and welfare.

[18-4508, added 1988, ch. 281, sec. 1, p. 912; am. 1989, ch. 219, sec. 1, p. 532; am. 2000, ch. 469, sec. 23, p. 1478.]

18-4509. MISSING CHILD REPORTS -- LAW ENFORCEMENT AGENCIES -- DUTIES. (1) Upon receiving a report of a missing or runaway child, a law enforcement agency shall immediately enter identifying and descriptive information about the child into the national crime information center computer. Law enforcement agencies having direct access to the national crime information center computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the system.

(2) If the local law enforcement agency has reason to believe that a missing or runaway child is enrolled in an Idaho elementary or secondary school, it shall notify that school of the report, at which time the school shall flag the missing child's record pursuant to section [18-4511](#), Idaho Code.

(3) The Idaho state police shall report the entries made by local law enforcement in the national crime information center to the state registrar. Upon learning of the return of a missing or runaway child, the Idaho state police shall so notify the state registrar of this state if the child was born in Idaho, or the appropriate officer in the state where the child was born, and the school informed under the provisions of subsection (2) of this section.

(4) The Idaho state police shall by rule determine the frequency, manner and form of notices and reports required by this act.

(5) Immediately after a missing or runaway child is returned, the law enforcement agency having jurisdiction over the investigation shall clear the entry from the national crime information center computer.

[18-4509, added 1988, ch. 281, sec. 1, p. 912; am. 1989, ch. 219, sec. 2, p. 533; am. 1999, ch. 12, sec. 1, p. 16; am. 2000, ch. 469, sec. 24, p. 1478.]

18-4510. BIRTH RECORDS OF MISSING CHILDREN -- STATE REGISTRAR'S DUTIES. 1. Upon notification by a law enforcement agency that a child born in the state is missing or has run away, the state registrar shall flag the child's birth certificate record in such a manner that whenever a copy of the birth certificate or information concerning the birth record is requested,

the state director shall be alerted to the fact that the certificate is that of a missing or runaway child.

2. In response to any inquiry, the state registrar or any clerk appointed by him or any employee of vital statistics shall not provide a copy of a birth certificate or information concerning the birth record of any missing or runaway child whose birth record has been flagged pursuant to this section, and shall immediately notify the law enforcement agency having jurisdiction over the investigation of the missing or runaway child. Inquiries shall be handled in the following manner:

(a) When a copy of the birth certificate of a missing or runaway child whose record has been flagged is requested in person, the employee receiving the request shall immediately notify his supervisor or the state registrar. The person making the request shall complete a form supplying his name, address, telephone number and relationship to the missing or runaway child and the name, address and birth date of the missing or runaway child. The driver's license of the person making the request, if available, shall be photocopied and returned to him. He shall be informed that the birth certificate will be mailed to him when it is released. The employee shall note the physical description of the person making the request, and, upon that person's departure from the vital statistics office, the supervisor or state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and provide it with the information obtained pursuant to subsection 2(a) of this section. The state registrar shall retain the form completed by the person making the request.

(b) When a copy of the birth certificate of a missing or runaway child whose birth record has been flagged is requested in writing, the state registrar shall immediately notify the law enforcement agency having jurisdiction of the request and shall provide a copy of the written request. The state registrar shall retain the original written request.

3. Upon notification by a law enforcement agency that a missing or runaway child has been returned or when the child reaches his eighteenth birthday, the state registrar shall remove the flag from the child's birth record.

[18-4510, added 1988, ch. 281, sec. 1, p. 913; am. 1989, ch. 219, sec. 3, p. 534.]

18-4511. SCHOOL DUTIES -- RECORDS OF MISSING CHILD -- IDENTIFICATION UPON ENROLLMENT -- TRANSFER OF STUDENT RECORDS. (1) Upon notification by the Idaho state police of a missing or runaway child report, the school in which the child is currently enrolled shall flag the record of that child in such a manner that whenever a copy of or information regarding the record is requested, the school shall be alerted to the fact that the record is that of a missing or runaway child. The school shall immediately report to the local law enforcement agency any request concerning flagged records or knowledge as to the whereabouts of the missing or runaway child. Upon notification by the Idaho state police of the return of the missing or runaway child, the school shall remove the flag from the child's record.

(2) Upon enrollment of a student for the first time in a public or private elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days he must provide either a certified copy of the student's birth certificate or other reliable proof of the student's identity and birthdate, which proof shall be accompanied by an affidavit explaining the inability to produce a copy of

the birth certificate. Other reliable proof of the student's identity and birthdate may include a passport, visa or other governmental documentation of the child's identity.

(a) Upon the failure of a person enrolling a student to comply with the provisions of this subsection, the school shall immediately notify the local law enforcement agency of such failure, and shall notify the person enrolling the student, in writing, that he has ten (10) additional days to comply.

(b) The school shall immediately report to the local law enforcement agency any documentation or affidavit received pursuant to this subsection which appears inaccurate or suspicious in form or content.

(3) Within fourteen (14) days after enrolling a transfer student, the public or private elementary or secondary school shall request directly from the student's previous school a certified copy of his record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. A student transferring schools within the same school district need not provide proof of identity and birthdate if the student's record already contains such verified information. Any public or private elementary or secondary school which is requested to forward a copy of a transferred student's record to the student's new school shall comply within ten (10) days of receipt of the request, unless the record has been flagged pursuant to subsection (1) of this section, in which case the copy shall not be forwarded and the school shall notify the local law enforcement agency of the request for a flagged record; provided however, that any private school accredited by the state board of education which has an agreement allowing retention of a student's record when such student's tuition or fees have not been paid may comply with the provisions of this subsection by notifying the student's new school that the transferred student's records are being held for nonpayment of tuition or fees. However, such private school shall be required to notify the local law enforcement agency if the student's record has been flagged pursuant to the provisions of subsection (1) of this section, even if the student's tuition and fees have not been paid.

(4) It shall be the duty of the local law enforcement agency to immediately investigate each report received from a school of a failure to comply with the provisions of subsection (2) or (3) of this section.

(5) Failure of a parent, or person in custody of a child, or a person enrolling a student, to comply with the documentation requirements of this section after a lawful request by a law enforcement agency, or to cooperate with a law enforcement investigation lawfully conducted pursuant to this section, shall constitute a misdemeanor.

[18-4511, added 1988, ch. 281, sec. 1, p. 914; am. 1989, ch. 219, sec. 4, p. 535; am. 1992, ch. 108, sec. 1, p. 337; am. 1993, ch. 188, sec. 1, p. 479; am. 1996, ch. 400, sec. 1, p. 1333; am. 2000, ch. 469, sec. 25, p. 1479.]

18-4512. MISSING PERSONS CLEARINGHOUSE. (1) The Idaho state police shall establish a missing persons clearinghouse as a resource center of information and assistance regarding missing and unidentified persons.

(2) The director of the Idaho state police shall appoint a coordinator to manage appropriate programs for addressing the problem of missing persons, which may include the following:

(a) Collecting and maintaining computerized data and investigative information on missing and unidentified persons in Idaho;

- (b) Establishing access to the national crime information center and to other sources of automated information;
- (c) Distributing information to public and private nonprofit agencies that will assist in the location and recovery of missing persons;
- (d) Operating a toll-free telephone hotline for accepting reports relating to missing persons;
- (e) Publishing a directory of missing persons;
- (f) Compiling statistics on missing persons cases handled and resolved each year;
- (g) Developing and conducting training on issues relating to missing persons;
- (h) Developing and distributing educational and other information regarding the prevention of abduction and sexual exploitation of children.

(3) The Idaho state police may accept gifts and grants from governmental agencies and private nonprofit organizations to achieve the purposes of the clearinghouse.

(4) The Idaho state police shall publish an annual report on the activities and achievements of the clearinghouse.

(5) The Idaho state police shall determine, by rule, the type and content of information to be collected by the clearinghouse and the manner of collecting and disseminating that information.

(6) The clearinghouse coordinator, in cooperation with the office of the superintendent of public instruction, shall develop a coordinated plan for the distribution of information to teachers and students in the school districts of the state regarding missing and runaway children. The superintendent of public instruction shall encourage local school districts to cooperate by providing the Idaho state police with information on any missing and runaway children that may be identified within the district.

[18-4512 added 1996, ch. 367, sec. 1, p. 1238; am. 1999, ch. 12, sec. 2, p. 17; am. 2000, ch. 469, sec. 26, p. 1480.]