

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 66
SEX CRIMES

18-6601. INCEST. (1) Any person who willfully marries or engages in sexual intercourse with another person known to be within the degrees of consanguinity within which marriages are declared by law to be incestuous and void under section [32-205](#), Idaho Code, is guilty of a felony.

(2) For the purposes of this section, "sexual intercourse" means genital-genital, oral-genital, anal-genital, oral-anal, manual-anal, or manual-genital penetration between persons of the same or opposite sex.

(3) Any violations of this section are punishable by imprisonment in the state prison for a term not to exceed fifteen (15) years; however, if a victim is under the age of eighteen (18) years at the time of violation of this section, such violation is punishable by imprisonment in the state prison for a term not to exceed life.

[(18-6601) 18-6602, added 1972, ch. 336, sec. 1, p. 966; am. 2003, ch. 202, sec. 1, p. 543; am. 2006, ch. 178, sec. 9, p. 550; am. and redesign. 2022, ch. 124, sec. 5, p. 437.]

18-6602. SEXUAL ABUSE OF AN ANIMAL. (1) A person is guilty of a felony if that person:

- (a) Engages in sexual contact with an animal;
- (b) Advertises, solicits, offers, or accepts the offer of an animal or possesses, purchases, or otherwise obtains an animal with the intent that the animal be subject to sexual contact; or
- (c) Causes, aids, or abets another person to engage in sexual contact with an animal.

(2) As used in this section:

- (a) "Animal" means any living creature of the animal kingdom, other than a human being, whether dead or alive at the time of the violation of this section; and
- (b) "Sexual contact" means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain without a bona fide veterinary or animal husbandry purpose and involving:

- (i) Contact between the sex organs or anus of an animal and the mouth of the person or contact between the sex organs or anus of the person and the mouth of the animal;
- (ii) The insertion of any part of the animal's body into the vaginal or anal opening of the person; or
- (iii) The insertion of any part of the body of a person or any object into the vaginal or anal opening of an animal.

(3) Any person who violates this section may be punished by imprisonment in the state prison for a term not to exceed five (5) years. Additionally, the court may order a person who violates this section to:

- (a) Relinquish custody of some or all animals under the person's control at the time of the offense. If the person convicted of violating this section is not the owner of the animal that was the subject of the violation, then the animal shall be returned to the owner of the animal.

An animal returned to an owner under this section shall not be spayed or neutered prior to being returned; and

(b) Reimburse the agency or shelter caring for the animal for reasonable costs incurred for the care and treatment of the animal from the date of impoundment until the disposition of the criminal proceeding.

(4) Nothing in this section shall be construed to criminalize:

(a) Generally accepted veterinary practices in compliance with [chapter 21, title 54](#), Idaho Code;

(b) Generally accepted agricultural, farming, ranching, and animal husbandry practices, including grooming, raising, breeding or artificially inseminating an animal for reproductive purposes, assisting with the birthing process of animals, or any other procedure that provides care for an animal;

(c) Generally accepted commercial, traditional, cultural, historical, or tribal practices, including judging of breed conformation, rodeos, horse racing, fairs, and stock sales and auctions; or

(d) Generally accepted hunting, fishing, and trapping practices in compliance with [title 36](#), Idaho Code.

[18-6602, added 2022, ch. 124, sec. 6, p. 437.]

18-6603. SEXUAL ABUSE OF HUMAN REMAINS. (1) A person is guilty of a felony if that person engages in sexual contact with human remains.

(2) As used in this section:

(a) "Human remains" means a deceased human body or any portion of a deceased human body in any condition or state of decomposition; and

(b) "Sexual contact" means any act committed between a person and human remains for the purpose of sexual arousal, sexual gratification, abuse, or financial gain involving genital-genital, oral-genital, anal-genital, oral-anal, manual-genital, or manual-anal contact between a person and human remains or penetration of the genitals or anus with an object, instrument, or device.

(3) Any person who violates this section may be punished by imprisonment in the state prison for a term not to exceed five (5) years.

(4) Nothing in this section shall be construed to criminalize:

(a) Generally accepted dental, nursing, or medical practices in compliance with chapter 9, chapter 18, or [chapter 14, title 54](#), Idaho Code;

(b) Generally accepted organ donation or anatomical gift practices in compliance with [chapter 34, title 39](#), Idaho Code;

(c) Generally accepted mortuary or funerary practices, including but not limited to embalming in compliance with [chapter 11, title 54](#), Idaho Code; or

(d) Generally accepted investigative practices by coroners, medical examiners, pathologists, or the like.

[18-6603, added 2022, ch. 124, sec. 7, p. 438.]

18-6604. FORCIBLE PENETRATION BY USE OF FOREIGN OBJECT. (1) A person violates this section when that person willfully causes the penetration, however slight, of the genital or anal opening of any person, by any object, instrument, or device:

(a) Against the victim's will by:

(i) Use of force or violence; or

(ii) Duress; or

- (iii) Threats of immediate and great bodily harm, accompanied by apparent power of execution; or
- (b) Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent; or
- (c) Where the victim is prevented from resistance by any intoxicating, narcotic, or anesthetic substance; or
- (d) Where the victim is at the time unconscious of the nature of the act because the victim:
 - (i) Was unconscious or asleep; or
 - (ii) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(2) A person who violates the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.

(3) The provisions of this section shall not apply to bona fide medical, health care, or hygiene procedures.

[(18-6604) 18-6608, added 1983, ch. 176, sec. 1, p. 484; am. 2002, ch. 360, sec. 1, p. 1018; am. 2014, ch. 165, sec. 1, p. 467; am. 2018, ch. 323, sec. 1, p. 753; am. and redesig. 2022, ch. 124, sec. 8, p. 438.]

18-6605. VIDEO VOYEURISM. (1) As used in this section:

- (a) "Broadcast" means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons.
- (b) "Disseminate" means to make available by any means to any person.
- (c) "Imaging device" means any instrument capable of recording, storing, viewing or transmitting visual images.
- (d) "Intimate areas" means the nude genitals, nude pubic area, nude buttocks or nude female nipple.
- (e) "Person" means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof.
- (f) "Place where a person has a reasonable expectation of privacy" means:
 - (i) A place where a reasonable person would believe that he could undress, be undressed or engage in sexual activity in privacy, without concern that he is being viewed, photographed, filmed or otherwise recorded by an imaging device; or
 - (ii) A place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or
 - (iii) Any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas.
- (g) "Publish" means to:
 - (i) Disseminate with the intent that such image or images be made available by any means to any person; or
 - (ii) Disseminate with the intent that such images be sold by another person; or
 - (iii) Post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

(iv) Disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible by any means and to make such image or images available to the public.

(h) "Sell" means to disseminate to another person, or to publish, in exchange for something of value.

(i) "Sexual act" includes, but is not limited to, masturbation; genital, anal or oral sex; sexual penetration with an object; or the transfer or transmission of semen upon any part of the depicted person's body.

(2) A person is guilty of video voyeurism when, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other person, he uses, installs or permits the use or installation of an imaging device at a place where a person would have a reasonable expectation of privacy, without the knowledge or consent of the person using such place.

(3) A person is guilty of video voyeurism when:

(a) With the intent to annoy, terrify, threaten, intimidate, harass, offend, humiliate or degrade, he intentionally disseminates, publishes or sells or conspires to disseminate, publish or sell any image of another person who is identifiable from the image itself or information displayed in connection with the image and whose intimate areas are exposed, in whole or in part, or who is engaged in a sexual act;

(b) He knew or reasonably should have known that the person depicted in the image understood that the image should remain private; and

(c) He knew or reasonably should have known that the person depicted in the image did not consent to the dissemination, publication or sale of the image.

(4) A violation of this section is a felony.

(5) This section does not apply to:

(a) An interactive computer service, as defined in 47 U.S.C. 230(f)(2), an information service, as defined in 47 U.S.C. 153 or a telecommunication service, as defined in section [61-121](#)(2) or [62-603](#)(13), Idaho Code, for content provided by another person, unless the provider intentionally aids or abets video voyeurism;

(b) Images involving voluntary exposure in public or commercial settings; or

(c) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceedings or medical treatment.

[(18-6605) 18-6609, added 2004, ch. 122, sec. 1, p. 410; am. 2014, ch. 173, sec. 1, p. 477; am. 2018, ch. 256, sec. 1, p. 606; am. and redesig. 2022, ch. 124, sec. 9, p. 438.]