

TITLE 18  
CRIMES AND PUNISHMENTS

CHAPTER 66  
SEX CRIMES

18-6601. ADULTERY. A married man who has sexual intercourse with a woman not his wife, an unmarried man who has sexual intercourse with a married woman, a married woman who has sexual intercourse with a man not her husband, and an unmarried woman who has sexual intercourse with a married man, shall be guilty of adultery, and shall be punished by a fine of not less than \$100, or by imprisonment in the county jail for not less than three months, or by imprisonment in the state penitentiary for a period not exceeding three years, or in the county jail for a period not exceeding one year, or by fine not exceeding \$1000.

[18-6601, added 1972, ch. 336, sec. 1, p. 966.]

18-6602. INCEST. Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison for a term not to exceed life.

[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.]

18-6603. FORNICATION. Any unmarried person who shall have sexual intercourse with an unmarried person of the opposite sex shall be deemed guilty of fornication, and, upon conviction thereof, shall be punished by a fine of not more than \$300 or by imprisonment for not more than six months or by both such fine and imprisonment; provided, that the sentence imposed or any part thereof may be suspended with or without probation in the discretion of the court.

[18-6603, added 1972, ch. 336, sec. 1, p. 966.]

18-6605. CRIME AGAINST NATURE -- PUNISHMENT. Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

[18-6605, added 1972, ch. 336, sec. 1, p. 966.]

18-6606. CRIME AGAINST NATURE -- PENETRATION. Any sexual penetration, however slight, is sufficient to complete the crime against nature.

[18-6606, added 1972, ch. 336, sec. 1, p. 967.]

18-6608. FORCIBLE PENETRATION BY USE OF FOREIGN OBJECT. Every person who willfully causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device:

- (1) Against the victim's will by:
  - (a) Use of force or violence; or

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

shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.

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

[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.]

18-6609. CRIME OF 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.

[18-6609, added 2004, ch. 122, sec. 1, p. 410; am. 2014, ch. 173, sec. 1, p. 477; am. 2018, ch. 256, sec. 1, p. 606.]