

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 83
SEXUAL OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT

18-8301. SHORT TITLE. This chapter shall be known and may be cited as the "Sexual Offender Registration Notification and Community Right-to-Know Act."

[18-8301, added 1998, ch. 411, sec. 2, p. 1276.]

18-8302. FINDINGS. The legislature finds that sexual offenders present a danger and that efforts of law enforcement agencies to protect their communities, conduct investigations and quickly apprehend offenders who commit sexual offenses are impaired by the lack of current information available about individuals who have been convicted of sexual offenses who live within their jurisdiction. The legislature further finds that providing public access to certain information about convicted sexual offenders assists parents in the protection of their children. Such access further provides a means for organizations that work with youth or other vulnerable populations to prevent sexual offenders from threatening those served by the organizations. Finally, public access assists the community in being observant of convicted sexual offenders in order to prevent them from recommitting sexual crimes. Therefore, this state's policy is to assist efforts of local law enforcement agencies to protect communities by requiring sexual offenders to register with local law enforcement agencies and to make certain information about sexual offenders available to the public as provided in this chapter.

[18-8302, added 1998, ch. 411, sec. 2, p. 1276; am. 2011, ch. 311, sec. 1, p. 882.]

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes: [18-1506A](#) (ritualized abuse of a child); [18-1508](#) (lewd conduct); [18-4003](#)(d) (murder committed in the perpetration of rape); [18-4502](#) (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); [18-4503](#) (second-degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); [18-6101](#) (rape, but excluding section [18-6101](#)(1) where the victim is at least twelve years of age or the defendant is eighteen years of age); [18-6608](#) (forcible penetration by use of a foreign object); [18-8602](#)(1) (a) (i) (sex trafficking); and any other offense set forth in section [18-8304](#), Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen (13) years or an offense that is substantially similar to any of the foregoing offenses under the laws of another jurisdiction or military court or the court of another country.

(2) "Board" means the sexual offender management board described in section [18-8312](#), Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to [chapter 18, title 54](#), Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or [chapter 34, title 54](#), Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section [18-8314](#), Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment that involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Foreign conviction" means a conviction under the laws of Canada, Great Britain, Australia or New Zealand, or a conviction under the laws of any foreign country deemed by the U.S. department of state, in its country reports on human rights practices, to have been obtained with sufficient safeguards for fundamental fairness and due process.

(8) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(9) "Jurisdiction" means any of the following: a state, the District of Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, the federal government or a federally recognized Indian tribe.

(10) "Minor" means an individual who has not attained the age of eighteen (18) years.

(11) "Offender" means an individual convicted of an offense listed and described in section [18-8304](#), Idaho Code, or a substantially similar offense under the laws of another jurisdiction or military court or the court of another country deemed by the U.S. department of state, in its country reports on human rights practices, to have sufficient safeguards for fundamental fairness and due process.

(12) "Offense" means a sexual offense listed in section [18-8304](#), Idaho Code.

(13) "Psychosexual evaluation" means an evaluation that specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(14) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(15) "Residence" means the offender's present place of abode.

(16) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(17) "Violent sexual predator" means a person who was designated as a violent sexual predator by the sex offender classification board where such designation has not been removed by judicial action or otherwise.

[18-8303, added 1998, ch. 411, sec. 2, p. 1277; am. 1999, ch. 349, sec. 1, p. 932; am. 2000, ch. 236, sec. 1, p. 663; am. 2000, ch. 469, sec. 30, p. 1489; am. 2001, ch. 194, sec. 1, p. 659; am. 2002, ch. 183, sec. 1, p. 532; am. 2003, ch. 235, sec. 1, p. 603; am. 2004, ch. 125, sec. 1, p. 417; am. 2009, ch. 250, sec. 1, p. 761; am. 2010, ch. 352, sec. 6, p. 923; am. 2011, ch. 311, sec. 2, p. 882; am. 2016, ch. 296, sec. 9, p. 838; am. 2019, ch. 30, sec. 1, p. 82; am. 2019, ch. 143, sec. 5, p. 492.]

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section [18-909](#) (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), [18-911](#) (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), [18-919](#) (sexual exploitation by a medical care provider), [18-925](#) (aggravated sexual battery), [18-1505B](#) (sexual abuse and exploitation of a vulnerable adult), [18-1506](#) (sexual abuse of a child under sixteen years of age), [18-1506A](#) (ritualized abuse of a child), felony violations of [18-1507](#) (sexual exploitation of a child), [18-1508](#) (lewd conduct with a minor child), [18-1508A](#) (sexual battery of a minor child sixteen or seventeen years of age), [18-1509A](#) (enticing a child over the internet), [18-4003](#)(d) (murder committed in perpetration of rape), [18-4116](#) (indecent exposure, but excluding a misdemeanor conviction), [18-4502](#) (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), [18-4503](#) (second degree kidnapping where the victim is an unrelated minor child), [18-5605](#) (detention for prostitution), [18-5609](#) (inducing person under eighteen years of age into prostitution), [18-5610](#) (utilizing a person under eighteen years of age for prostitution), [18-5611](#) (inducing person under eighteen years of age to patronize a prostitute), [18-6101](#) (rape, but excluding [18-6101](#)(1) where the defendant is eighteen years of age), [18-6110](#) (sexual contact with a prisoner), [18-6602](#) (incest), [18-6605](#) (crime against nature), [18-6608](#) (forcible penetration by use of a foreign object), [18-6609](#) (video voyeurism where the victim is a minor or upon a second or subsequent conviction), [18-7804](#) (if the racketeering act involves kidnapping of a minor) or [18-8602](#)(1)(a)(i) (sex trafficking), Idaho Code.

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in paragraph (a) of this subsection and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in

paragraph (a) of this subsection and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) The department shall have authority to promulgate rules to implement the provisions of this chapter.

[18-8304, added 1998, ch. 411, sec. 2, p. 1277; am. 1999, ch. 302, sec. 1, p. 754; am. 1999, ch. 349, sec. 2, p. 933; am. 2001, ch. 194, sec. 2, p. 660; am. 2003, ch. 145, sec. 2, p. 419; am. 2004, ch. 122, sec. 2, p. 411; am. 2005, ch. 233, sec. 1, p. 711; am. 2006, ch. 408, sec. 1, p. 1237; am. 2009, ch. 250, sec. 2, p. 762; am. 2010, ch. 352, sec. 7, p. 925; am. 2011, ch. 27, sec. 2, p. 68; am. 2011, ch. 311, sec. 3, p. 884; am. 2012, ch. 269, sec. 4, p. 754; am. 2012, ch. 271, sec. 1, p. 765; am. 2013, ch. 240, sec. 3, p. 567; am. 2016, ch. 296, sec. 5, p. 829; am. 2016, ch. 377, sec. 3, p. 1105; am. 2018, ch. 322, sec. 3, p. 751; am. 2019, ch. 30, sec. 2, p. 83; am. 2019, ch. 143, sec. 6, p. 494.]

18-8305. CENTRAL REGISTRY -- NOTICE TO AGENCIES. (1) The department shall establish and maintain a central sexual offender registry separate from other records maintained by the department. The information contained in the registry shall be in digital form or include links or identification numbers that provide access to the information in other databases in which it is included in digital form. The registry shall include, but is not limited to, the following information:

(a) Name and all aliases that the offender has used or under which the offender has been known including the offender's primary or given name, nicknames and pseudonyms generally, regardless of the context in which they are used, any designations or monikers used for self-identification in internet communications or postings and traditional names given by family or clan pursuant to ethnic or tribal tradition;

(b) A complete physical description of the person including any identifying marks, such as scars or tattoos, the offender's date of birth including any date the offender uses as his or her purported date of birth and the offender's social security number including any number the offender uses as his or her purported social security number;

(c) The criminal history of the offender including the jurisdiction of all arrests and convictions, the name under which the offender was con-

victed of each offense, the status of parole, probation or supervised release; registration status; and the existence of any outstanding arrest warrants for the offender;

(d) The text of the provision of law defining the criminal offense for which the sexual offender is registered as formulated at the time the offender was convicted;

(e) The name and location of each hospital, jail or penal institution to which the offender was committed for each offense covered under this chapter;

(f) The address or physical description of each residence at which the offender resides;

(g) The name and address of any place where the offender is a student or will be a student unless the offender is only participating in courses remotely through the mail or the internet;

(h) The license plate number and a description of any vehicle owned or regularly operated by the sexual offender including any vehicle the offender drives, either for personal use or in the course of employment, regardless of to whom the vehicle is registered. The term "vehicle" includes watercraft and aircraft. To the extent the vehicle does not have a license plate, a registration number or other identifying information shall be provided;

(i) Any e-mail or instant messaging address used by the offender;

(j) The offender's telephone numbers including, but not limited to, fixed location telephone numbers, voice over internet protocol numbers and cell phone numbers;

(k) The name and address of any place where the offender is employed or will be employed and the name and address of any place where the offender works as a volunteer or otherwise works without remuneration or if the offender does not have a fixed place of employment, a description of normal travel routes or the general areas in which the offender works;

(l) Information regarding any professional license maintained by the offender that authorizes the offender to engage in an occupation or carry out a trade or business;

(m) Information about the offender's passport, if any, and if the offender is an alien, information about documents establishing the offender's immigration status including document type and number information for such documents and a digitized copy of the documents;

(n) A set of fingerprints and palm prints of the offender;

(o) A current photograph of the offender; and

(p) A photocopy of a valid driver's license or identification card issued to the offender, if any.

(2) The department shall adopt rules relating to providing notice of address changes to law enforcement agencies, developing forms, operating the central registry, reviewing and correcting records, and expunging records of persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of expungement or relief from registration has been entered pursuant to section [18-8310](#), Idaho Code.

(3) The department shall develop and distribute to appropriate agencies the standardized forms necessary for the administration of the registry and shall provide appropriate agencies with instructions for completing and submitting the forms. The attorney general shall approve the forms and instructions prior to distribution.

(4) The department shall notify the attorney general of the United States and appropriate law enforcement agencies of any failure by an offender to comply with the requirements of this chapter and shall revise the registry to reflect the nature of that failure.

[18-8305, added 1998, ch. 411, sec. 2, p. 1278; am. 2011, ch. 311, sec. 4, p. 885.]

18-8306. NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION. (1) When a person is sentenced for an offense identified in section [18-8304](#), Idaho Code, the prosecuting attorney shall seek and the court shall order a designated law enforcement agency to immediately photograph that person and obtain fingerprints and palm prints unless the person has been photographed and has provided fingerprints and palm prints previously for the same offense. Fingerprints, palm prints and photographs may be taken at the jail or correctional facility to which the person is remanded or sentenced. The fingerprints, palm prints and photographs taken pursuant to this subsection shall be submitted to the department as provided in section [67-3005](#), Idaho Code.

(2) A person convicted of an offense identified in section [18-8304](#), Idaho Code, and released on probation without a sentence of incarceration in a county jail or correctional facility, including release pursuant to a withheld judgment or release from any mental institution, shall be notified by the sentencing court of the duty to register pursuant to the provisions of this chapter and the offender shall register in accordance with this chapter no later than two (2) working days after sentence is imposed or judgment is withheld. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the defendant. The court shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(3) With respect to an offender convicted of a sexual offense identified in section [18-8304](#), Idaho Code, and sentenced to a period of immediate incarceration in a jail or correctional facility and subsequently released, placed on probation, or paroled, the department of correction or jail shall provide, prior to release from confinement, written notification of the duty to register and the offender shall register prior to his or her release. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the offender. The department of correction or jail shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(4) The sheriff of each county shall provide written notification, on a form provided by the Idaho transportation department and approved by the attorney general, of the registration requirements of this chapter to any person who enters this state from another jurisdiction and makes an application for an identification card or a license to operate a motor vehicle in this state. The written notice shall be signed by the person and one (1) copy shall be retained by the sheriff's office and one (1) copy shall be provided to the person.

(5) The notification form provided by the department and approved by the attorney general shall:

(a) Explain the duty to register, the procedure for registration and penalty for failure to comply with registration requirements;

(b) Inform the offender of the requirement to provide notice of any change of address within Idaho or to another jurisdiction within two (2) working days of such change and of the immediate notification requirements set forth in subsections (2) and (3) of section [18-8309](#), Idaho Code;

(c) Inform the offender of the requirement to register in a new jurisdiction within two (2) working days of changing residence to that jurisdiction, becoming employed in that jurisdiction or becoming a student in that jurisdiction; and

(d) Obtain from the offender and agency or court, the information required for initial registration in the central registry as set forth in section [18-8305](#), Idaho Code, and any other information required by rules promulgated by the department.

(6) The official conducting the notice and initial registration shall ensure that the notification form is complete, that the offender has read and signed the form, and that a copy is forwarded to the central repository within three (3) working days of the registration.

(7) No person subject to registration shall willfully furnish false or misleading information when complying with registration and notification requirements of this chapter.

(8) An offender required to register under this chapter shall initially register in the jurisdiction in which he or she was convicted as well as any other jurisdiction requiring registration under this chapter. If the jurisdiction in which the offender is initially required to register is Idaho, the offender shall register in the county in which he or she primarily intends to reside. The county of initial registration shall then notify the department, which shall notify any other county or jurisdiction in which the offender is required to register.

[18-8306, added 1998, ch. 411, sec. 2, p. 1279; am. 1999, ch. 249, sec. 4, p. 647; am. 1999, ch. 302, sec. 2, p. 755; am. 2004, ch. 126, sec. 2, p. 429; am. 2011, ch. 311, sec. 5, p. 887.]

18-8307. REGISTRATION. (1) Registration shall consist of a form provided by the department and approved by the attorney general, which shall be signed by the offender and shall require the information set forth in subsection (1) of section [18-8305](#), Idaho Code.

(2) At the time of registration, the sheriff shall obtain a photograph and fingerprints, in a manner approved by the department, and require the offender to provide full palm print impressions of each hand. A violent sexual predator shall pay a fee of fifty dollars (\$50.00) to the sheriff at the time of the first calendar quarter registration and ten dollars (\$10.00) per registration every subsequent quarter in the same calendar year. All other offenders shall pay an annual fee of eighty dollars (\$80.00) to the sheriff for registration. The sheriff may waive the registration fee if the violent sexual predator or other offender demonstrates indigency. The fees collected under this section shall be used by the sheriff to defray the costs of violent sexual predator and other sexual offender registration and verification and for electronic notification, law enforcement information sharing and tracking. Irrespective of the classification or designation of the offender or predator, each county shall cause forty dollars (\$40.00) per offender per year of the fees collected under this section to be used for development, continuous use and maintenance of a statewide electronic notification, in-

formation sharing and tracking system as implemented by the Idaho sheriffs' association.

(3) The sheriff shall forward the completed and signed form, photograph, fingerprints and palm prints to the department within three (3) working days of the registration.

(a) The official conducting the registration shall ensure that the notification form is complete and that the offender has read and signed the form.

(b) No person subject to registration shall furnish false or misleading information when complying with registration and notification requirements of this chapter.

(4) (a) Within two (2) working days of coming into any county to establish residence, an offender shall register with the sheriff of the county. The offender thereafter shall register annually, unless the offender is designated as a violent sexual predator, in which case the offender shall register with the sheriff every three (3) months as provided in this section. If the offender intends to reside in another jurisdiction, the offender shall register in the other jurisdiction within two (2) days of moving to that jurisdiction and will not be removed from the sexual offender registry in Idaho until registration in another jurisdiction is complete.

(b) A nonresident required to register pursuant to section [18-8304](#)(1)(b), Idaho Code, shall register with the sheriff of the county where employed or enrolled as a student within two (2) working days of the commencement of employment or enrollment as a student in an educational institution, provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, must register prior to the commencement of such employment.

(5) Registration shall be conducted as follows:

(a) For violent sexual predators the department shall mail a non-forwardable notice of quarterly registration to the offender's last reported address within three (3) months following the last registration;

(b) For all other sex offenders the department shall mail an annual, nonforwardable notice of registration to the offender's last reported address;

(c) Within five (5) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff in the county in which the offender is required to register for the purpose of completing the registration process;

(d) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.

(6) All written notifications of duty to register as provided herein shall include a warning that it is a felony as provided in section [18-8327](#), Idaho Code, for an offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in [chapter 11, title 39](#), Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children.

(7) An offender shall keep the registration current for the full registration period. The full registration period is for life; however, offenders may petition for release from the full registration period as set forth in section [18-8310](#), Idaho Code.

[18-8307, added 1998, ch. 411, sec. 2, p. 1280; am. 1999, ch. 302, sec. 3, p. 756; am. 1999, ch. 349, sec. 3, p. 934; am. 2004, ch. 270, sec. 4, p. 754; am. 2005, ch. 233, sec. 2, p. 712; am. 2006, ch. 178, sec. 10, p. 550; am. 2011, ch. 311, sec. 6, p. 888; am. 2013, ch. 131, sec. 1, p. 300.]

18-8308. VERIFICATION OF ADDRESS AND ELECTRONIC MONITORING OF VIOLENT SEXUAL PREDATORS. (1) The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every thirty (30) days between registrations, to each offender designated as a violent sexual predator.

(ii) Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned to the department as not delivered, or if the signed notice is not returned on time, the department shall, within five (5) days, notify the sheriff with whom the offender designated as a violent sexual predator last registered.

(iii) The sheriff shall verify the address of the offender by visiting the offender's residence once every six (6) months or, if the offender fails to comply with the provisions of paragraph (a) (ii) of this subsection, at any reasonable time to verify the address provided at registration.

(2) The address or physical residence of any sex offender not designated as a violent sexual predator shall be verified by the department between registrations. The procedure for verification shall be as follows:

(a) The department shall mail a nonforwardable notice of address verification every four (4) months between annual registrations.

(b) Each offender shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned as not delivered or if the signed notice is not returned on time, the department shall notify the sheriff within five (5) days and the sheriff shall visit the residence of the registered offender at any reasonable time to verify the address provided at registration.

(3) Any individual designated as a violent sexual predator shall be monitored with electronic monitoring technology for the duration of the individual's probation or parole period as set forth in section [20-219](#)(2), Idaho Code. Any person who, without authority, intentionally alters, tampers with, damages or destroys any electronic monitoring equipment required to be worn or used by a violent sexual predator shall be guilty of a felony.

(4) A sexual offender who does not provide a physical residence address at the time of registration shall report, in person, once every seven (7) days to the sheriff of the county in which he resides. Each time the offender reports to the sheriff, he shall complete a form provided by the department

that includes the offender's name, date of birth, social security number and a detailed description of the location where he is residing. The sheriff shall visit the described location at least once each month to verify the location of the offender.

[18-8308, added 1998, ch. 411, sec. 2, p. 1281; am. 2006, ch. 178, sec. 11, p. 551; am. 2009, ch. 156, sec. 1, p. 456; am. 2009, ch. 250, sec. 3, p. 763; am. 2010, ch. 79, sec. 2, p. 133; am. 2011, ch. 311, sec. 7, p. 890.]

18-8309. DUTY TO UPDATE REGISTRATION INFORMATION. (1) If an offender subject to registration changes his or her name, street address or actual address, employment or student status, the offender shall appear in person within two (2) working days after the change at the office of the sheriff of the county where the offender is required to register and notify the sheriff of all changes in the information required for that offender in the sex offender registry. Provided however, nonresidents employed in this jurisdiction in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, shall register before the commencement of such employment. Within three (3) working days after receipt of the notice, the sheriff shall notify the department of the changed information and the department shall notify all other counties and jurisdictions in which the offender is required to register. An offender satisfies the notification requirements set forth in this subsection if he or she appears in another jurisdiction in which registration is required and notifies that jurisdiction of the changed information.

(2) An offender required to register shall immediately notify the department of any lodging lasting seven (7) days or more, regardless of whether the lodging would be considered a residence as defined in section [18-8303](#), Idaho Code. The department shall immediately notify the jurisdiction in which the lodging will occur if different than the jurisdiction in which the offender is required to register.

(3) An offender required to register shall immediately notify the department of any changes in his or her vehicle information and of any changes in designations used for self-identification or routing in internet communications or postings or telephonic communications.

(4) If this jurisdiction is notified that an offender who is required to register is expected to commence residence, employment or school attendance in this jurisdiction, but the offender fails to appear for registration as required, this jurisdiction shall inform the jurisdiction that provided the notification that the offender failed to appear and shall follow the procedures for cases involving possible violations of registration requirements set forth in the rules of procedures promulgated by the department.

(5) An offender required to register in Idaho shall notify the county in which he or she is registered of his or her intent to commence residence, employment or school attendance outside of the United States. Once notified, the county shall notify the central registry, which shall notify all other counties and jurisdictions in which the offender is required to register and notify the United States marshals service and update the registry accordingly.

(6) Upon receipt of information pursuant to this section, the department shall notify the law enforcement agencies in the counties where the offender resides or will reside, enter information in the central registry and transmit the appropriate information as required pursuant to section

[18-8324](#), Idaho Code. Upon receipt of a notice of an offender changing residence to another jurisdiction or entering another jurisdiction for employment purposes or to attend school, the department shall notify those agencies entitled to notification pursuant to section [18-8324](#), Idaho Code.

(7) The department shall notify the attorney general of the United States and appropriate law enforcement agencies of any failure by an offender to comply with the requirements of this chapter and revise the registry to reflect the nature of that failure.

[18-8309, added 2011, ch. 311, sec. 9, p. 891.]

18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1) Registration under this act is for life; however, any offender, other than a recidivist, an offender who has been convicted of an aggravated offense, or an offender designated as a violent sexual predator, may, after a period of ten (10) years from the date the offender was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the offender shall be exempted from the duty to register as a sexual offender. If the offender was convicted in Idaho, the offender shall file his or her petition in the county in which he or she was convicted. If the offender was convicted in a jurisdiction other than Idaho, then the offender shall file his or her petition in the county in which he or she resides. In the petition the petitioner shall:

- (a) Provide clear and convincing evidence that the petitioner has completed any periods of supervised release, probation or parole without revocation;
- (b) Provide an affidavit indicating that the petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in section [18-8304](#), Idaho Code;
- (c) Provide proof of service of such petition and supporting documents upon the county prosecuting attorney for the county in which the application is made and upon the central registry;
- (d) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender;
- (e) Provide clear and convincing evidence that the petitioner has successfully completed a sexual offender treatment program;
- (f) Provide an affidavit demonstrating that the petitioner has no felony convictions during the period for which the petitioner has been registered; and
- (g) Provide an affidavit demonstrating that the petitioner has committed no sex offenses during the period for which the petitioner has been registered.

(2) The county prosecuting attorney and the central registry may submit evidence, including by affidavit, rebutting the assertions contained within the offender's petition, affidavits or other documents filed in support of the petition.

(3) The district court may grant a hearing if it finds that the petition is sufficient. The court shall provide at least sixty (60) days' prior notice of the hearing to the petitioner, the county prosecuting attorney and the central registry. The central registry may appear or participate as a party.

(4) The court may exempt the petitioner from the registration requirement only after a hearing on the petition in open court and only upon proof by clear and convincing evidence and upon written findings of fact and conclusions of law by the court that:

(a) The petitioner has complied with the requirements set forth in subsection (1) of this section;

(b) The court has reviewed the petitioner's criminal history and has determined that the petitioner is not a recidivist, has not been convicted of an aggravated offense or has not been designated as a violent sexual predator; and

(c) It is highly probable or reasonably certain the petitioner is not a risk to commit a new violation for any violent crime or crime identified in section [18-8304](#), Idaho Code.

(5) Concurrent with the entry of any order exempting the petitioner from the registration requirement, the court may further order that any information regarding the petitioner be expunged from the central registry.

[18-8310, added 1998, ch. 411, sec. 2, p. 1282; am. 2000, ch. 236, sec. 2, p. 664; am. 2001, ch. 194, sec. 3, p. 661; am. 2009, ch. 68, sec. 1, p. 191; am. 2011, ch. 311, sec. 10, p. 892.]

18-8310A. DISTRICT COURT TO RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. Any person who was convicted under section [18-6101](#) 1., Idaho Code, as it existed before July 1, 2010, where such person would not have been convicted under section [18-6101](#)(1) or (2), Idaho Code, may petition the district court for a determination to be exempted from the duty to register as a sexual offender. If the district court finds that such person would not have been convicted under section [18-6101](#)(1) or (2), Idaho Code, then the district court may exempt the petitioner from the duty to register as a sexual offender and may order that any information regarding the petitioner be expunged from the central registry. In the petition, the petitioner shall:

(1) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender; and

(2) Provide an affidavit that states the following:

(a) The specific underlying facts of petitioner's conviction and that such facts do not come within the provisions of section [18-6101](#)(1) or (2), Idaho Code;

(b) The petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any crime identified in section [18-8304](#), Idaho Code; and

(c) The petitioner is not required to register as a sexual offender for any other reason set forth in this chapter.

[18-8310A, added 2012, ch. 271, sec. 2, p. 766.]

18-8311. PENALTIES. (1) An offender subject to registration who knowingly fails to register, verify his address, or provide any information or notice as required by this chapter shall be guilty of a felony and shall be punished by imprisonment in the state prison system for a period not to exceed ten (10) years and by a fine not to exceed five thousand dollars (\$5,000). If the offender is on probation or other supervised release or suspension from incarceration at the time of the violation, the probation or supervised release or suspension shall be revoked and the penalty for

violating this chapter shall be served consecutively to the offender's original sentence.

(2) An offender subject to registration under this chapter, who willfully provides false or misleading information in the registration required, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed ten (10) years and a fine not to exceed five thousand dollars (\$5,000).

[18-8311, added 1998, ch. 411, sec. 2, p. 1282; am. 2000, ch. 236, sec. 3, p. 665; am. 2006, ch. 178, sec. 13, p. 553; am. 2011, ch. 311, sec. 11, p. 893.]

18-8312. SEXUAL OFFENDER MANAGEMENT BOARD -- APPOINTMENT -- TERMS -- VACANCIES -- CHAIRMAN -- QUORUM -- QUALIFICATIONS OF MEMBERS -- COMPENSATION OF MEMBERS. (1) A sexual offender management board is hereby created within the Idaho department of correction. The board shall consist of ten (10) voting members appointed by the governor by and with the advice and consent of the senate. Present members shall continue to serve for the balance of their initial terms of appointment. Thereafter, any member appointed or reappointed shall serve for a term of three (3) years. Members shall be eligible for reappointment to the board without limitation. The board shall be charged with the advancement and oversight of sexual offender management policies and practices statewide.

(2) Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made. Members appointed to a vacant position shall serve the remainder of the unexpired term.

(3) Qualifications of members.

(a) One (1) member of the board shall have, by education, experience and training, expertise in the assessment and treatment of adult sexual offenders.

(b) One (1) member of the board shall have, by education, experience and training, expertise in the assessment and treatment of juveniles who have been adjudicated for sexual offenses.

(c) One (1) member of the board shall have, by education, experience and training, expertise in cultural diversity and behavior of sexual offenders as they relate to assessment and treatment.

(d) One (1) member of the board shall be from the Idaho department of correction.

(e) One (1) member of the board shall be from the Idaho department of juvenile corrections.

(f) One (1) member of the board shall be an attorney who has experience in the prosecution of sexual offenders through the criminal justice process.

(g) One (1) member of the board shall be an attorney who has experience in the defense of sexual offenders through the criminal justice process.

(h) One (1) member of the board shall be from the Idaho sheriffs' association.

(i) One (1) member of the board shall be a representative of the public.

(j) One (1) member of the board shall have, by education, experience and training, expertise in postconviction sexual offender polygraph examination.

(4) In addition, there shall be advisory to the board, one (1) nonvoting member representing the judiciary who shall be appointed by the chief jus-

tice of the Idaho supreme court. The term of appointment for the judicial member shall be four (4) years.

(5) The board may create subcommittees to address specific issues. Such subcommittees may include board members as well as invited experts and other stakeholders or participants.

(6) The board shall elect a chairman from its members.

(7) A quorum shall exist when a majority of the board is present.

(8) Members shall be compensated as provided by section [59-509](#)(o), Idaho Code.

[18-8312, added 1998, ch. 411, sec. 2, p. 1283; am. 2002, ch. 183, sec. 2, p. 533; am. 2011, ch. 311, sec. 12, p. 893; am. 2015, ch. 306, sec. 1, p. 1208.]

18-8313. REMOVAL OF BOARD MEMBERS. The governor may remove members of the board for reasons of inefficiency, neglect of duty, malfeasance in office, commission of a felony or inability to perform the duties of office.

[18-8313, added 1998, ch. 411, sec. 2, p. 1283.]

18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER MANAGEMENT BOARD. (1) The board shall develop, advance and oversee sound sexual offender management policies and practices statewide as demonstrated by evidence-based best practices.

(2) The board shall carry out the following duties:

(a) Establish standards for psychosexual evaluations performed pursuant to section [18-8316](#), Idaho Code, and sexual offender treatment programs based on current and evolving best practices.

(b) Establish qualifications, set forth procedures for approval and certification and administer the certification process for:

(i) Professionals conducting psychosexual evaluations pursuant to section [18-8316](#), Idaho Code, or adjudication proceedings on juvenile sexual offenders;

(ii) Professionals providing treatment to adult or juvenile sexual offenders as ordered or required by the court, Idaho department of correction, Idaho commission of pardons and parole or the Idaho department of juvenile corrections; and

(iii) Professionals conducting postconviction sexual offender polygraphs as ordered or required by the court, Idaho department of correction or Idaho commission of pardons and parole.

(c) Establish a nonrefundable processing fee not to exceed one hundred fifty dollars (\$150) for each initial certification and a nonrefundable processing fee not to exceed one hundred fifty dollars (\$150) for each annual recertification.

(d) Set forth and administer procedures for quality assurance of the standards and qualifications established in this section.

(e) The board shall have authority to deny, revoke, restrict or suspend a certification if standards or qualifications are not met or to otherwise monitor a provider.

(f) Establish and implement standard protocols for sexual offender management, assessment and classification based on current and evolving best practices.

(3) The board shall have authority to promulgate rules to carry out the provisions of this chapter.

[18-8314, added 1998, ch. 411, sec. 2, p. 1284; am. 2000, ch. 235, sec. 1, p. 662; am. 2000, ch. 236, sec. 4, p. 665; am. 2002, ch. 183, sec. 3, p. 534; am. 2003, ch. 235, sec. 2, p. 604; am. 2004, ch. 125, sec. 2, p. 418; am. 2006, ch. 379, sec. 1, p. 1172; am. 2010, ch. 352, sec. 8, p. 926; am. 2011, ch. 311, sec. 13, p. 894.]

18-8315. COMPLIANCE WITH OPEN MEETINGS LAW. All meetings of the board shall be held in accordance with the open meetings law as provided in [chapter 2, title 74](#), Idaho Code.

[18-8315, added 1998, ch. 411, sec. 2, p. 1284; am. 2000, ch. 469, sec. 31, p. 1490; am. 2004, ch. 125, sec. 3, p. 420; am. 2011, ch. 311, sec. 14, p. 896; am. 2019, ch. 161, sec. 1, p. 526.]

18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVICTION. If ordered by the court, an offender convicted of any offense listed in section [18-8304](#), Idaho Code, may submit to an evaluation to be completed and submitted to the court in the form of a written report from a certified evaluator as defined in section [18-8303](#), Idaho Code, for the court's consideration prior to sentencing and incarceration or release on probation. The court shall select the certified evaluator from a central roster of evaluators compiled by the sexual offender management board. A certified evaluator performing such an evaluation shall be disqualified from providing any treatment ordered as a condition of any sentence, unless waived by the court. An evaluation conducted pursuant to this section shall be done in accordance with the standards established by the board pursuant to section [18-8314](#), Idaho Code.

[18-8316, added 1998, ch. 411, sec. 2, p. 1285; am. 1999, ch. 380, sec. 1, p. 1044; am. 2003, ch. 235, sec. 3, p. 605; am. 2011, ch. 311, sec. 15, p. 897.]

18-8318. OFFENDER REQUIRED TO PAY FOR PSYCHOSEXUAL EVALUATION. The offender shall be required to pay for the cost of the psychosexual evaluations performed under this chapter, unless the offender demonstrates indigency. In such case, the psychosexual evaluation performed pursuant to section [18-8316](#), Idaho Code, shall be paid for by the county. As a condition of sentence, indigent offenders for whom the county has paid the cost of evaluation performed pursuant to section [18-8316](#), Idaho Code, shall be required to repay the county for the cost.

[18-8318, added 1998, ch. 411, sec. 2, p. 1286; am. 1999, ch. 302, sec. 6, p. 758; am. 2011, ch. 311, sec. 17, p. 897.]

18-8323. PUBLIC ACCESS TO SEXUAL OFFENDER REGISTRY INFORMATION. Information within the sexual offender registry collected pursuant to this chapter is subject to release only as provided by this section.

(1) The department or sheriff shall provide public access to information contained in the central sexual offender registry by means of the internet.

(2) Information that shall be made available to the public is limited to:

- (a) The offender's name including any aliases or prior names;
- (b) The offender's date of birth;

(c) The address of each residence at which the offender resides or will reside and, if the offender does not have any present or expected residence address, other information about where the offender has his or her home or habitually lives;

(d) The address of any place where the offender is a student or will be a student;

(e) A physical description of the offender;

(f) The offense for which the offender is registered and any other sex offense for which the offender has been convicted and the place of the convictions;

(g) A current photograph of the offender; and

(h) Temporary lodging information including the place and the period of time the offender is staying at such lodging. "Temporary lodging" means any place in which the offender is staying when away from his or her residence for seven (7) or more days. If current information regarding the offender's residence is not available because the offender is in violation of the requirement to register or cannot be located, then the website shall so note.

(3) The following information shall not be disclosed to the public:

(a) The identity of the victim;

(b) The offender's social security number;

(c) Any reference to arrests of the offender that did not result in conviction;

(d) Any internet identifier associated with and/or provided by the offender;

(e) Any information pertaining to the offender's passports and immigration documents; and

(f) Any information identifying any person related to, living with, working for, employing or otherwise associated with a registered sexual offender.

(4) Where a crime category such as "incest" may serve to identify a victim, that crime will be reported as a violation of section [18-1506](#), Idaho Code.

(5) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section [18-8326](#), Idaho Code, for misuse of registry information.

(6) Information released pursuant to this section may be used only for the protection of the public.

(7) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (5) of this section.

[18-8323, added 1998, ch. 411, sec. 2, p. 1288; am. 1999, ch. 302, sec. 7, p. 758; am. 2001, ch. 195, sec. 1, p. 662; am. 2011, ch. 311, sec. 22, p. 898.]

18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department shall, within three (3) business days, disseminate any registration information collected under this chapter, including any changes in registry information, to:

(a) The attorney general of the United States for inclusion in the national sex offender registry or other appropriate databases;

(b) Each school and public housing agency in each area in which the offender resides, is an employee or is a student;

(c) Each jurisdiction where the sexual offender resides, is an employee or is a student and each jurisdiction from or to which a change of residence, employment or student status occurs;

(d) Criminal justice agencies through the public safety and security information system established in section [19-5202](#), Idaho Code;

(e) Any agency responsible for conducting employment-related background checks under section 3 of the national child protection act of 1993, 42 U.S.C. section 5119a;

(f) Social service entities responsible for protecting minors in the child welfare system;

(g) Volunteer organizations in which contact with minors or other vulnerable adults might occur; and

(h) Any organization, company or individual who requests notification of changes in registry information.

(2) Registry information provided under this section shall be used only for the administration of criminal justice or for the protection of the public as permitted by this chapter.

(3) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section [18-8326](#), Idaho Code, for misuse of registry information.

(4) Information released pursuant to this section may be used only for the protection of the public.

(5) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (3) of this section.

[18-8324, added 1998, ch. 411, sec. 2, p. 1289; am. 2003, ch. 28, sec. 1, p. 101; am. 2005, ch. 115, sec. 1, p. 371; am. 2006, ch. 35, sec. 1, p. 98; am. 2011, ch. 311, sec. 23, p. 899.]

18-8325. EXEMPTION FROM CIVIL LIABILITY. (1) No person or governmental entity, other than those specifically charged in this chapter with a duty to collect information under this chapter regarding registered sexual offenders, has a duty to inquire, investigate or disclose any information regarding registered sexual offenders.

(2) No person or governmental entity, other than those specifically charged in this chapter with an affirmative duty to provide public access to information regarding registered sexual offenders, shall be held liable for any failure to disclose any information regarding registered sexual offenders to any other person or entity.

(3) Every person or governmental entity who, acting without malice or criminal intent, obtains or disseminates information under this chapter shall be immune from civil liability for any damages claimed as a result of such disclosures made or received.

[18-8325, added 1998, ch. 411, sec. 2, p. 1290.]

18-8326. PENALTIES FOR VIGILANTISM OR OTHER MISUSE OF INFORMATION OBTAINED UNDER THIS CHAPTER. Any person who uses information obtained pursuant to this chapter to commit a crime or to cause physical harm to any person or

damage to property shall be guilty of a misdemeanor and, in addition to any other punishment, be subject to imprisonment in the county jail for a period not to exceed one (1) year, or by a fine not to exceed one thousand dollars (\$1,000) or both.

[18-8326, added 1998, ch. 411, sec. 2, p. 1290.]

18-8327. ADULT CRIMINAL SEX OFFENDER -- PROHIBITED EMPLOYMENT. (1) Except as provided in section [18-8328](#), Idaho Code, it is a felony for any person to: apply for or to accept employment at a day care center, group day care facility or family day care home; or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the person's child or children if the person is currently registered or is required to register under the sex offender registration act as provided in [chapter 83, title 18](#), Idaho Code.

(2) The owner or operator of any day care center, group day care facility or family day care home who knowingly employs a person or who knowingly accepts volunteer services from a person, which person is currently registered or is required to register under the sex offender registration act as provided in [chapter 83, title 18](#), Idaho Code, to work in the day care center, group day care facility or family day care home is guilty of a misdemeanor unless judicial relief has been granted pursuant to section [18-8328](#), Idaho Code.

[18-8327, added 2004, ch. 270, sec. 1, p. 753.]

18-8328. ACTION FOR RELIEF BY OFFENDER OR JUVENILE OFFENDER. Any person who is required to register pursuant to [chapter 83, title 18](#), Idaho Code, or [chapter 84, title 18](#), Idaho Code, may file a petition in a district court in the judicial district where the person resides, to have relief from the provisions of section [18-8327](#) or [18-8414](#), Idaho Code, pertaining to employment in or being upon or remaining on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the sex offender's or juvenile sex offender's child or children. To be granted relief pursuant to this section, the person shall show by clear and convincing evidence that the person required to register pursuant to [chapter 83, title 18](#), Idaho Code, or [chapter 84, title 18](#), Idaho Code, does not pose a threat to children in a day care center, group day care facility or family day care home, it has been at least ten (10) years since the person's last conviction, finding of guilt or adjudication that required the person to register pursuant to [chapter 83, title 18](#), Idaho Code, or [chapter 84, title 18](#), Idaho Code, and the petitioner presents testimony from a licensed physician or psychologist about the petitioner's chance of success of not committing an act against children.

[18-8328, added 2004, ch. 270, sec. 6, p. 756.]

18-8329. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED ACCESS TO SCHOOL CHILDREN -- EXCEPTIONS. (1) If a person is currently registered or is required to register under the sex offender registration act as provided in [chapter 83, title 18](#), Idaho Code, it is a misdemeanor for such person to:

(a) Be upon or to remain on the premises of any school building or school grounds in this state, or upon other properties posted with a

notice that they are used by a school, when the person has reason to believe children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity.

(b) Knowingly loiter on a public way within five hundred (500) feet from the property line of school grounds in this state, including properties posted with a notice that they are used by a school, when children under the age of eighteen (18) years are present and are involved in a school activity or when children are present within thirty (30) minutes before or after a scheduled school activity.

(c) Be in any conveyance owned or leased by a school to transport students to or from school or a school-related activity when children under the age of eighteen (18) years are present in the conveyance.

(d) Reside within five hundred (500) feet of the property on which a school is located, measured from the nearest point of the exterior wall of the offender's dwelling unit to the school's property line, provided however, that this paragraph (d) shall not apply if such person's residence was established prior to July 1, 2006.

The posted notices required in this subsection (1) shall be at least one hundred (100) square inches, shall make reference to section [18-8329](#), Idaho Code, shall include the term "registered sex offender" and shall be placed at all public entrances to the property.

(2) The provisions of subsections (1) (a) and (1) (b) of this section shall not apply when the person:

(a) Is a student in attendance at the school; or

(b) Resides at a state licensed or certified facility for incarceration, health or convalescent care; or

(c) Is exercising his right to vote in public elections; or

(d) Is taking delivery of his mail through an official post office located on school grounds; or

(e) Stays at a homeless shelter or resides at a recovery facility if such shelter or facility has been approved for sex offenders by the county sheriff or municipal police chief; or

(f) Contacts the school district office annually and prior to his first visit of a school year and has obtained written permission from the district to be on the school grounds or upon other property posted with a notice that the property is used by a school. For the purposes of this section, "contacts the school district office" shall include mail, facsimile machine, or by computer using the internet. The provisions of this subsection are required for an individual who:

(i) Is dropping off or picking up a child or children and the person is the child or children's parent or legal guardian; or

(ii) Is attending an academic conference or other scheduled extracurricular school event with school officials present when the offender is a parent or legal guardian of a child who is participating in the conference or extracurricular event. "Extracurricular" means any school-sponsored activity that is outside the regular curriculum, occurring during or outside regular school hours including, but not limited to, academic, artistic, athletic or recreational activities; or

(iii) Is temporarily on school grounds, during school hours, for the purpose of making a mail, food or other delivery.

(3) Nothing in this section shall prevent a school district from adopting more stringent safety and security requirements for employees and nonemployees while they are in district facilities and/or on district properties. If adopting more stringent safety and security requirements, the school district shall provide the requirements to any individual listed in subsection (2) (f) (i) through (iii) by mail, facsimile machine or by computer using the internet.

[18-8329, added 2006, ch. 354, sec. 1, p. 1084; am. 2008, ch. 250, sec. 1, p. 736; am. 2011, ch. 266, sec. 1, p. 725.]

18-8331. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED GROUP DWELLING -- EXCEPTIONS. (1) Except as otherwise provided in this section, when a person is required to register pursuant to this chapter, that person may not reside in any residential dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter. If, on the effective date of this section, any person required to register pursuant to this chapter, is legally residing in a residential dwelling unit with more than one (1) other person required to so register, the person may continue to reside in that residential dwelling unit without violating the provisions of this section, provided that no additional persons so required to register shall move into that residential dwelling unit if the person moving in would be in violation of this section.

(2) For purposes of this section:

(a) "Reside" and "residing" mean occupying the residential dwelling unit as a fixed place of abode or habitation for any period and to which place the person has the intention of returning after a departure or absence therefrom regardless of the duration of absence.

(b) "Residential dwelling unit" includes, but is not limited to, single family dwellings and units in multifamily dwellings including units in duplexes, apartment dwellings, mobile homes, condominiums and townhouses in areas zoned as residential. For the purposes of this section a state or federally licensed health care or convalescent facility is not a residential dwelling unit.

(3) (a) A judge of the district court may, upon petition and after an appropriate hearing, authorize a person required to register pursuant to this chapter, to reside in a residential dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter, if the judge determines that:

(i) Upon clear and convincing evidence that not doing so would deprive the petitioner of a constitutionally guaranteed right; and

(ii) That such right is more compelling under the facts of the case than is the interest of the state and local government in protecting neighboring citizens, including minors, from risk of physical or psychological harm. Such risk of harm shall be presumed absent clear and convincing evidence to the contrary given the applicant's status as a person required to register pursuant to this chapter;

(b) Any exception allowed under this section shall be limited to alleviate only a deprivation of constitutional right which is more compelling than the interest of the state and local government in minimizing the risk of harm to the neighboring citizens;

(c) Any order of exception under this section shall be made a part of the registry maintained pursuant to this chapter.

(4) Any city or county may establish standards for the establishment and operation of residential houses for registered sex offenders which exceed the number of registered sex offenders allowed to reside in a residential dwelling unit under subsection (1) of this section. Applicable standards shall include establishing procedures to allow comment of neighboring residents within a specified distance, and may include, but are not limited to:

- (a) Designating permissible zones in which such houses may be located;
- (b) Designating permissible distances between such houses;
- (c) Designating the maximum number of registered sex offenders allowed to reside in such houses;
- (d) Designating qualifications and standards for supervision and care of such houses and the residents;
- (e) Designating requirements and procedures to qualify as the operator of such houses, including any requirement that the residents be engaged in treatment or support programs for sex offenders and related addiction treatment or support programs; and
- (f) Designating any health and safety requirements which are different than those applicable to other residential dwelling units in the zone.

(5) No person or entity shall operate a residence house for registered sex offenders in violation of the limitations of subsection (1) of this section except as otherwise provided under subsection (4) of this section. If, on the effective date of this section, any individual or entity is operating an existing residence house for persons required to register pursuant to this chapter, and when such individual or entity also requires such persons to be participants in a sex offender treatment or support program such individual or entity shall not be precluded from continuing to operate such residence house, provided that:

- (a) The residence house shall not operate at a capacity exceeding eight (8) residents in the dwelling unit and two (2) residents per bedroom, or the existing number of residents, whichever is less;
- (b) Once the governing city or county enacts an ordinance pursuant to subsection (4) of this section establishing standards for the operation of a residence house for sex offenders, the operator of the residence house shall, no later than one (1) year after enactment of the ordinance, comply with all standards of the ordinance, except any requirement that is less than the maximum capacity provided for under subsection (5) (a) of this section or which requires a relocation of the residence;
- (c) The burden of proving that an existing residence house qualifies for continuing operation under this subsection shall be upon the operator of the residence house;
- (d) Any change in the use of an existing residence house shall void the exception for the continuing operation of the house under the provisions of this section.

(6) If any person required to register pursuant to this chapter, is on parole or probation under the supervision of the Idaho department of correction, the department shall be notified by the person or the person's agent of any intent to reside with another person required to register under this chapter. The department must approve the living arrangement in advance as consistent with the terms of the parole or probation, and consistent with the objective of reducing the risk of recidivism. The department shall establish rules governing the application of this subsection.

(7) Any person who knowingly and with intent violates the provisions of this section is guilty of a misdemeanor.

(8) Any city or county is entitled to injunctive relief against any person or entity operating a residence house within its jurisdiction in violation of this section.

[18-8331, added 2008, ch. 124, sec. 1, p. 343.]