

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 86
HUMAN TRAFFICKING

18-8601. LEGISLATIVE INTENT. It is the intent of the legislature to address the growing problem of human trafficking and to provide criminal sanctions for persons who engage in human trafficking in this state. In addition to the other provisions enumerated in this chapter, the legislature finds that it is appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.

[(18-8601) 18-8501, added 2006, ch. 85, sec. 1, p. 249; am. and redesign. 2007, ch. 90, sec. 4, p. 249; am. 2019, ch. 143, sec. 1, p. 491.]

18-8602. DEFINITIONS.

(1) (a) "Human trafficking" means:

- (i) Sex trafficking in which commercial sexual activity is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or
- (ii) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(b) Human trafficking may include, but is not limited to, the use of the following types of force, fraud, or coercion:

- (i) Threatening serious harm to, or physical restraint against, that person or a third person;
- (ii) Destroying, concealing, removing, or confiscating any passport, immigration document, or other government-issued identification document;
- (iii) Abusing or threatening abuse of the law or legal process against the person or a third person;
- (iv) Using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined; or
- (v) Using a condition of servitude by means of any scheme, plan, or pattern intended to cause a reasonable person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint or would be threatened with abuse of legal process.

(c) "Sex trafficking" includes all forms of commercial sexual activity, which may include the following conduct:

- (i) Sexual conduct, as defined in section [18-5610](#) (2) (a), Idaho Code;
- (ii) Sexual contact, as defined in section [18-5610](#) (2) (b), Idaho Code;

- (iii) Sexually explicit performance;
- (iv) Prostitution; or
- (v) Participation in the production of pornography.

(2) "Commercial sexual activity" means sexual conduct or sexual contact in exchange for anything of value, as defined in section [18-5610](#) (2) (c), Idaho Code, illicit or legal, given to, received by, or promised to any person.

[(18-8602) 18-8502, added 2006, ch. 85, sec. 1, p. 249; am. and redesign. 2007, ch. 90, sec. 5, p. 249; am. 2019, ch. 143, sec. 2, p. 491.]

18-8603. PENALTIES. Notwithstanding any other law to the contrary, on and after July 1, 2019, any person who commits the crime of human trafficking, as defined in section [18-8602](#), Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law.

[(18-8603) 18-8503, added 2006, ch. 85, sec. 1, p. 249; am. and redesign. 2007, ch. 90, sec. 6, p. 249; am. 2019, ch. 143, sec. 3, p. 492.]

18-8604. RESTITUTION -- REHABILITATION. (1) In addition to any other amount of loss resulting from a human trafficking violation, the court shall order restitution, as applicable, including the greater of:

- (a) The gross income or value to the defendant of the victim's labor or services; or
- (b) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act.

(2) In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims.

[(18-8604) 18-8504, added 2006, ch. 85, sec. 1, p. 250; am. and redesign. 2007, ch. 90, sec. 7, p. 250.]

18-8605. HUMAN TRAFFICKING VICTIM PROTECTION. (1) The attorney general shall, not later than January 1, 2024, issue a report outlining how existing state criminal laws protect or fail to protect human trafficking victims and recommending areas of improvement and modifications in existing laws and rules.

(2) The Idaho criminal justice commission, in consultation with the attorney general, shall, not later than January 1, 2024, issue and deliver a report to the germane committees of the Idaho legislature outlining how existing social service programs respond or fail to respond to the needs of human trafficking victims and the interplay of such existing programs with federally funded victim service programs and suggesting areas of improvement or modification. Such inquiry shall include but not be limited to the ability of state programs and licensing bodies to recognize federal nonimmigrant status for the purpose of benefits, programs, and licenses.

[18-8605, added 2023, ch. 311, sec. 4, p. 950.]

18-8606. SAFE HARBOR PROVISIONS. (1) Diversion of minor victim.

(a) When a minor is alleged to have committed any offense not listed in section [18-310](#)(2), Idaho Code, a prosecutor shall divert the offense if the minor committed the offense as a direct and immediate result of being a victim of human trafficking.

(b) If a minor has an offense diverted pursuant to paragraph (a) of this subsection, the minor shall be placed in a state-licensed residential facility, as defined in section [39-1202](#), Idaho Code, that provides a comprehensive rehabilitative program with access to:

- (i) Comprehensive case management;
- (ii) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (iii) Education and employment training services; and
- (iv) Off-site specialized services, as appropriate.

(c) A diversion agreement under this subsection may extend for up to twelve (12) months.

(d) Diversion shall only be available pursuant to this section if the minor expresses a willingness to cooperate and receive specialized services. If the minor is unwilling to cooperate with specialized services, continuation of the diversion shall be at the discretion of the court.

(2) A person charged with any offense not identified in section [18-310](#)(2), Idaho Code, committed as a direct and immediate result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking.

[18-8606, added 2019, ch. 257, sec. 1, p. 767.]