

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 17
TORT ACTIONS IN CHILD ABUSE CASES

6-1701. TORT ACTIONS IN CHILD ABUSE CASES. (1) An action may be brought by or on behalf of any child against any person who has:

(a) Willfully and lewdly committed any lewd or lascivious act or acts upon or with the body or any part or member of a child under the age of sixteen (16) years as defined in section 18-1508, Idaho Code; or

(b) Sexually abused any child as defined in section 18-1506, Idaho Code; or

(c) Sexually exploited any child for a commercial purpose as defined in section 18-1507, Idaho Code; or

(d) Injured a child as defined in section 18-1501, Idaho Code.

(2) If an act prohibited under subsection (1) of this section involves employment-related circumstances as provided under section 6-1607(2), Idaho Code, then an action may be brought under the common law by, or on behalf of, any child against the employer of the person who committed the act, subject to the requirements of section 6-1607, Idaho Code.

(3) The civil causes of action provided for in this section exist independently of any criminal action commenced pursuant to chapter 15, title 18, Idaho Code. A civil action may be pursued under the provisions of this chapter even if a criminal prosecution is not pursued.

[6-1701, added 1989, ch. 47, sec. 1, p. 60; am. 2007, ch. 125, sec. 1, p. 375.]

6-1702. WHO MAY BRING ACTION. A child abuse tort action under the provisions of this chapter may be brought by the child or on the child's behalf by a parent or the child's legal representative.

[6-1702, added 1989, ch. 47, sec. 1, p. 61.]

6-1703. DAMAGES -- ATTORNEYS' FEES. Damages in an action brought pursuant to the provisions of this chapter shall consist of compensation for past and future damages and may consist of emotional and physical pain and suffering, mental anguish, disability, loss of society and companionship, expenses for past and future therapy, and punitive damages where the claimant proves malicious or outrageous conduct by the party against whom the claim for punitive damages is asserted.

The prevailing party in a child abuse tort action shall be entitled to costs and reasonable attorneys' fees.

[6-1703, added 1989, ch. 47, sec. 1, p. 61.]

6-1704. STATUTE OF LIMITATIONS. (1) Notwithstanding any limitation contained in chapter 2, title 5, Idaho Code, an action under the provisions of this chapter must be commenced within five (5) years from the date that an aggrieved child reaches the age of eighteen (18) years or, after the child reaches the age of eighteen (18) years, within five (5) years of the time the child discovers or reasonably should have discovered the act, abuse or exploitation and its causal relationship to an injury or condition suffered by the child, whichever occurs later.

(2) The child need not establish which act in a series of continuing acts, abuse or exploitation caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a child under the age of eighteen (18) years.

[6-1704, added 1989, ch. 47, sec. 1, p. 61; am. 2007, ch. 125, sec. 2, p. 375.]

6-1705. EFFECTIVE DATE. This act shall be in full force and effect on and after July 1, 1989. Provided, that an action may be brought under this chapter only if the cause of action accrued on or after July 1, 1989. Provided further, that nothing in this chapter is intended to affect or limit causes of action for damages or other relief recognized by common law or other statutory provisions for events that occurred before July 1, 1989.

[6-1705, added 1989, ch. 47, sec. 1, p. 61.]