

IN THE SENATE

SENATE BILL NO. 1005, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO HUMAN TRAFFICKING; AMENDING SECTION 18-8601, IDAHO CODE, TO
2 REVISE LEGISLATIVE INTENT; AMENDING SECTION 18-8602, IDAHO CODE, TO
3 REVISE THE DEFINITION OF "HUMAN TRAFFICKING" AND TO DEFINE TERMS;
4 AMENDING SECTION 18-8603, IDAHO CODE, TO REVISE A PENALTY; REPEALING
5 SECTION 18-8605, IDAHO CODE, RELATING TO HUMAN TRAFFICKING VICTIM PRO-
6 TECTION; AMENDING SECTION 18-8303, IDAHO CODE, TO PROVIDE A CORRECT
7 CODE REFERENCE; AND AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE A
8 CORRECT CODE REFERENCE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 18-8601, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 18-8601. LEGISLATIVE INTENT. It is the intent of the legislature to
14 address the growing problem of human trafficking and to provide criminal
15 sanctions for persons who engage in human trafficking in this state. In ad-
16 dition to the other provisions enumerated in this chapter, the legislature
17 finds that it ~~may also be~~ is appropriate for members of the law enforcement
18 community to receive training from the respective training entities in order
19 to increase awareness of ~~possible~~ human trafficking cases occurring in Idaho
20 and to assist and direct victims of such trafficking to available community
21 resources.

22 SECTION 2. That Section 18-8602, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 18-8602. ~~HUMAN TRAFFICKING DEFINED~~ DEFINITIONS.

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

26 (1i) Sex trafficking in which a commercial ~~sex act~~ sexual activ-
27 ity is induced by force, fraud, or coercion, or in which the person
28 induced to perform such act has not attained eighteen (18) years of
29 age; or

30 (2ii) The recruitment, harboring, transportation, provision, or
31 obtaining of a person for labor or services, through the use of
32 force, fraud, or coercion, for the purpose of subjection to invol-
33 untary servitude, peonage, debt bondage, or slavery.

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

36 (i) Threatening serious harm to, or physical restraint against,
37 that person or a third person;

38 (ii) Destroying, concealing, removing, or confiscating any pass-
39 port, immigration document, or other government-issued identifi-
40 cation document;

1 (iii) Abusing or threatening abuse of the law or legal process
 2 against the person or a third person;

3 (iv) Using a condition of a person being a debtor due to a pledge
 4 of the debtor's personal services or the personal services of a
 5 person under the control of the debtor as a security for debt where
 6 the reasonable value of the services is not applied toward the liq-
 7 uidation of the debt or the length and nature of those services are
 8 not respectively limited and defined; or

9 (v) Using a condition of servitude by means of any scheme, plan,
 10 or pattern intended to cause a reasonable person to believe that
 11 if the person did not enter into or continue in a condition of
 12 servitude, that person or a third person would suffer serious harm
 13 or physical restraint or would be threatened with abuse of legal
 14 process.

15 (c) "Sex trafficking" includes all forms of commercial sexual activ-
 16 ity, which may include the following conduct:

17 (i) Sexual conduct, as defined in section 18-5610(2) (a), Idaho
 18 Code;

19 (ii) Sexual contact, as defined in section 18-5610(2) (b), Idaho
 20 Code;

21 (iii) Sexually explicit performance;

22 (iv) Prostitution; or

23 (v) Participation in the production of pornography.

24 (2) "Commercial sexual activity" means sexual conduct or sexual con-
 25 tact in exchange for anything of value, as defined in section 18-5610(2) (c),
 26 Idaho Code, illicit or legal, given to, received by, or promised to any per-
 27 son.

28 SECTION 3. That Section 18-8603, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 18-8603. PENALTIES. Notwithstanding any other law to the contrary,
 31 on and after July 1, 2006~~19~~, any person who ~~commits a crime as provided~~
 32 ~~for in the following sections, and who, in the commission of such crime or~~
 33 ~~crimes, also~~ commits the crime of human trafficking, as defined in section
 34 18-8602, Idaho Code, shall be punished by imprisonment in the state prison
 35 for not more than twenty-five (25) years unless a more severe penalty is
 36 otherwise prescribed by law: ~~18-905 (aggravated assault), 18-907 (aggra-~~
 37 ~~vated battery), 18-909 (assault with intent to commit a serious felony),~~
 38 ~~18-911 (battery with intent to commit a serious felony), 18-913 (felonious~~
 39 ~~administering of drugs), 18-1501(1) (felony injury to child), 18-1505(1)~~
 40 ~~(felony injury to vulnerable adult), 18-1505(3) (felony exploitation of~~
 41 ~~vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable~~
 42 ~~adult), 18-1506 (sexual abuse of a child under the age of sixteen years),~~
 43 ~~18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of~~
 44 ~~child), 18-1508A (sexual battery of minor child sixteen or seventeen years~~
 45 ~~of age), 18-1509A (enticing of children over the internet), 18-1511 (sale or~~
 46 ~~barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (pros-~~
 47 ~~titution), or 18-7804 (racketeering).~~

1 SECTION 4. That Section [18-8605](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 5. That Section 18-8303, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 18-8303. DEFINITIONS. As used in this chapter:

6 (1) "Aggravated offense" means any of the following crimes: 18-1506A
7 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder
8 committed in the perpetration of rape); 18-4502 (first-degree kidnapping
9 committed for the purpose of rape, committing an infamous crime against na-
10 ture, committing any lewd and lascivious act upon any child under the age of
11 sixteen years or for purposes of sexual gratification or arousal); 18-4503
12 (second-degree kidnapping where the victim is an unrelated minor child and
13 the kidnapping is committed for the purpose of rape, committing an infamous
14 crime against nature, committing any lewd and lascivious act upon any child
15 under the age of sixteen years or for purposes of sexual gratification or
16 arousal); 18-6101 (rape, but excluding section 18-6101(1) where the vic-
17 tim is at least twelve years of age or the defendant is eighteen years of
18 age); 18-6608 (forcible sexual penetration by use of a foreign object);
19 18-8602(1)(a)(i) (sex trafficking); and any other offense set forth in sec-
20 tion 18-8304, Idaho Code, if at the time of the commission of the offense the
21 victim was below the age of thirteen (13) years or an offense that is sub-
22 stantially similar to any of the foregoing offenses under the laws of another
23 jurisdiction or military court or the court of another country.

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

26 (3) "Central registry" means the registry of convicted sexual offend-
27 ers maintained by the Idaho state police pursuant to this chapter.

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

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

37 (6) "Employed" means full-time or part-time employment exceeding ten
38 (10) consecutive working days or for an aggregate period exceeding thirty
39 (30) days in any calendar year, or any employment that involves counseling,
40 coaching, teaching, supervising or working with minors in any way regardless
41 of the period of employment, whether such employment is financially compen-
42 sated, volunteered or performed for the purpose of any government or educa-
43 tion benefit.

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

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

4 (9) "Jurisdiction" means any of the following: a state, the District of
5 Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the North-
6 ern Mariana Islands, the United States Virgin Islands, the federal govern-
7 ment or a federally recognized Indian tribe.

8 (10) "Minor" means an individual who has not attained the age of eigh-
9 teen (18) years.

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

16 (12) "Offense" means a sexual offense listed in section 18-8304, Idaho
17 Code.

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

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

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

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

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

31 SECTION 6. That Section 18-8304, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-
34 visions of this chapter shall apply to any person who:

35 (a) On or after July 1, 1993, is convicted of the crime, or an at-
36 tempt, a solicitation, or a conspiracy to commit a crime provided for
37 in section 18-909 (assault with intent to commit rape, infamous crime
38 against nature, or lewd and lascivious conduct with a minor, but ex-
39 cluding mayhem, murder or robbery), 18-911 (battery with intent to
40 commit rape, infamous crime against nature, or lewd and lascivious
41 conduct with a minor, but excluding mayhem, murder or robbery), 18-919
42 (sexual exploitation by a medical care provider), 18-925 (aggravated
43 sexual battery), 18-1505B (sexual abuse and exploitation of a vul-
44 nerable adult), 18-1506 (sexual abuse of a child under sixteen years
45 of age), 18-1506A (ritualized abuse of a child), felony violations of
46 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with
47 a minor child), 18-1508A (sexual battery of a minor child sixteen or
48 seventeen years of age), 18-1509A (enticing a child over the inter-
49 net), 18-4003(d) (murder committed in perpetration of rape), 18-4116

1 (indecent exposure, but excluding a misdemeanor conviction), 18-4502
2 (first degree kidnapping committed for the purpose of rape, committing
3 the infamous crime against nature or for committing any lewd and las-
4 civious act upon any child under the age of sixteen, or for purposes of
5 sexual gratification or arousal), 18-4503 (second degree kidnapping
6 where the victim is an unrelated minor child), 18-5605 (detention for
7 prostitution), 18-5609 (inducing person under eighteen years of age
8 into prostitution), 18-5610 (utilizing a person under eighteen years of
9 age for prostitution), 18-5611 (inducing person under eighteen years of
10 age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1)
11 where the defendant is eighteen years of age), 18-6110 (sexual contact
12 with a prisoner), 18-6602 (incest), 18-6605 (crime against nature),
13 18-6608 (forcible sexual penetration by use of a foreign object),
14 18-6609 (video voyeurism where the victim is a minor or upon a second or
15 subsequent conviction), 18-7804 (if the racketeering act involves kid-
16 napping of a minor) or 18-8602(1) (a) (i) (sex trafficking), Idaho Code.

17 (b) On or after July 1, 1993, has been convicted of any crime, an at-
18 tempt, a solicitation or a conspiracy to commit a crime in another ju-
19 risdiction or who has a foreign conviction that is substantially equiv-
20 alent to the offenses listed in paragraph (a) of this subsection and en-
21 ters this state to establish residence or for employment purposes or to
22 attend, on a full-time or part-time basis, any public or private edu-
23 cational institution including any secondary school, trade or profes-
24 sional institution or institution of higher education.

25 (c) Has been convicted of any crime, an attempt, a solicitation or a
26 conspiracy to commit a crime in another jurisdiction, including mili-
27 tary courts, that is substantially equivalent to the offenses listed in
28 paragraph (a) of this subsection and was required to register as a sex
29 offender in any other state or jurisdiction when he established resi-
30 dency in Idaho.

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

35 (e) Is a nonresident regularly employed or working in Idaho or is a stu-
36 dent in the state of Idaho and was convicted, found guilty or pleaded
37 guilty to a crime covered by this chapter and, as a result of such con-
38 viction, finding or plea, is required to register in his state of resi-
39 dence.

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

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

48 (4) The department shall have authority to promulgate rules to imple-
49 ment the provisions of this chapter.