

IN THE SENATE

SENATE BILL NO. 1248

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO SEXUAL OFFENDERS; AMENDING SECTION 18-8303, IDAHO CODE, TO RE-
2 MOVE A DEFINITION AND TO REVISE DEFINITIONS; REPEALING SECTION 18-8312,
3 IDAHO CODE, RELATING TO THE SEXUAL OFFENDER MANAGEMENT BOARD; REPEAL-
4 ING SECTION 18-8313, IDAHO CODE, RELATING TO REMOVAL OF BOARD MEMBERS;
5 AMENDING SECTION 18-8314, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF
6 CORRECTION SHALL HAVE CERTAIN POWERS AND DUTIES, TO REMOVE A PROVISION
7 REGARDING A PROCESSING FEE, TO PROVIDE A CODE REFERENCE, TO AUTHORIZE
8 CREATION OF AN ADVISORY PANEL, TO PROVIDE FOR MEMBERSHIP OF THE PANEL,
9 TO PROVIDE FOR A CHAIR OF THE PANEL, TO PROVIDE THAT THE DEPARTMENT OF
10 JUVENILE CORRECTIONS SHALL BE INCLUDED IN THE DEVELOPMENT AND APPROVAL
11 OF CERTAIN STANDARDS, POLICIES, AND RULES, AND TO PROVIDE FOR CERTIFI-
12 CATIONS IN GOOD STANDING; REPEALING SECTION 18-8315, IDAHO CODE, RELAT-
13 ING TO COMPLIANCE WITH OPEN MEETINGS; AMENDING SECTION 18-8316, IDAHO
14 CODE, TO PROVIDE THAT THE DEPARTMENT OF CORRECTION SHALL COMPILE A ROS-
15 TER OF CERTIFIED EVALUATORS AND TO PROVIDE THAT THE DEPARTMENT OF COR-
16 RECTION SHALL ESTABLISH CERTAIN STANDARDS; AND DECLARING AN EMERGENCY
17 AND PROVIDING AN EFFECTIVE DATE.
18

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

20 SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 18-8303. DEFINITIONS. As used in this chapter:

23 (1) "Aggravated offense" means any of the following crimes: 18-1506A
24 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder
25 committed in the perpetration of rape); 18-4502 (first-degree kidnapping
26 committed for the purpose of rape, committing any lewd and lascivious act
27 upon any child under the age of sixteen years or for purposes of sexual grati-
28 fication or arousal); 18-4503 (second-degree kidnapping where the victim is
29 an unrelated minor child and the kidnapping is committed for the purpose of
30 rape, committing any lewd and lascivious act upon any child under the age of
31 sixteen years or for purposes of sexual gratification or arousal); 18-6101
32 (rape, but excluding section 18-6101(1) where the victim is at least twelve
33 years of age or the defendant is eighteen years of age); 18-6604 (forcible
34 penetration by use of a foreign object); 18-8602(1)(a)(i) (sex traffick-
35 ing); and any other offense set forth in section 18-8304, Idaho Code, if at
36 the time of the commission of the offense the victim was below the age of
37 thirteen (13) years or an offense that is substantially similar to any of the
38 foregoing offenses under the laws of another jurisdiction or military court
39 or the court of another country.

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

1 ~~(3)~~ (2) "Central registry" means the registry of convicted sexual of-
2 fenders maintained by the Idaho state police pursuant to this chapter.

3 ~~(4)~~ (3) "Certified evaluator" means either a psychiatrist licensed by
4 this state pursuant to chapter 18, title 54, Idaho Code, or a master's or
5 doctoral level mental health professional licensed by this state pursuant
6 to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person
7 shall have, by education, experience and training, expertise in the assess-
8 ment and treatment of sexual offenders, and such person shall meet the quali-
9 fications and shall be approved by the board as described in section 18-8314,
10 Idaho Code, to perform psychosexual evaluations in this state, ~~as described~~
11 ~~in section 18-8314, Idaho Code.~~

12 ~~(5)~~ (4) "Department" means the Idaho state police.

13 ~~(6)~~ (5) "Employed" means full-time or part-time employment exceed-
14 ing ten (10) consecutive working days or for an aggregate period exceeding
15 thirty (30) days in any calendar year, or any employment that involves
16 counseling, coaching, teaching, supervising or working with minors in any
17 way regardless of the period of employment, whether such employment is
18 financially compensated, volunteered or performed for the purpose of any
19 government or education benefit.

20 ~~(7)~~ (6) "Foreign conviction" means a conviction under the laws of
21 Canada, Great Britain, Australia or New Zealand, or a conviction under the
22 laws of any foreign country deemed by the U.S. department of state, in its
23 country reports on human rights practices, to have been obtained with suffi-
24 cient safeguards for fundamental fairness and due process.

25 ~~(8)~~ (7) "Incarceration" means committed to the custody of the Idaho de-
26 partment of correction or department of juvenile corrections, but excluding
27 cases where the court has retained jurisdiction.

28 ~~(9)~~ (8) "Jurisdiction" means any of the following: a state, the Dis-
29 trict of Columbia, the commonwealth of Puerto Rico, Guam, American Samoa,
30 the Northern Mariana Islands, the United States Virgin Islands, the federal
31 government or a federally recognized Indian tribe.

32 ~~(10)~~ (9) "Minor" means an individual who has not attained the age of
33 eighteen (18) years.

34 ~~(11)~~ (10) "Offender" means an individual convicted of an offense listed
35 and described in section 18-8304, Idaho Code, or a substantially similar of-
36 fense under the laws of another jurisdiction or military court or the court
37 of another country deemed by the U.S. department of state, in its country re-
38 ports on human rights practices, to have sufficient safeguards for fundamen-
39 tal fairness and due process.

40 ~~(12)~~ (11) "Offense" means a sexual offense listed in section 18-8304,
41 Idaho Code.

42 ~~(13)~~ (12) "Psychosexual evaluation" means an evaluation that specif-
43 ically addresses sexual development, sexual deviancy, sexual history and
44 risk of reoffense as part of a comprehensive evaluation of an offender.

45 ~~(14)~~ (13) "Recidivist" means an individual convicted two (2) or more
46 times of any offense requiring registration under this chapter.

47 ~~(15)~~ (14) "Residence" means the offender's present place of abode.

48 ~~(16)~~ (15) "Student" means a person who is enrolled on a full-time or
49 part-time basis, in any public or private educational institution, includ-

1 ing any secondary school, trade or professional institution or institution
2 of higher education.

3 ~~(17)~~ (16) "Violent sexual predator" means a person who was designated
4 as a violent sexual predator by the former sexual offender ~~management~~
5 classification board where such designation has not been removed by judicial
6 action or otherwise.

7 SECTION 2. That Section 18-8312, Idaho Code, be, and the same is hereby
8 repealed.

9 SECTION 3. That Section 18-8313, Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 4. That Section 18-8314, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 ~~18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER MANAGEMENT~~
14 ~~BOARD. SEXUAL OFFENDER MANAGEMENT -- CERTIFIED PROVIDERS FOR SEXUAL OFFEND-~~
15 ~~ERS -- ADVISORY PANEL. (1) The board department of correction shall develop,~~
16 ~~advance and oversee sound sexual offender management policies and practices~~
17 ~~statewide as demonstrated by evidence-based best practices.~~

18 (2) The ~~board~~ department of correction shall carry out the following
19 duties:

20 (a) Establish standards for psychosexual evaluations performed pur-
21 suant to section 18-8316, Idaho Code, and sexual offender treatment
22 programs based on current and evolving best practices.

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

25 (i) Professionals conducting psychosexual evaluations pursuant
26 to section 18-8316, Idaho Code, or adjudication proceedings on ju-
27 venile sexual offenders;

28 (ii) Professionals providing treatment to adult or juvenile sex-
29 ual offenders as ordered or required by the court, the Idaho de-
30 partment of correction, the Idaho commission of pardons and pa-
31 role, or the Idaho department of juvenile corrections; and

32 (iii) Professionals conducting post-conviction sexual offender
33 polygraphs as ordered or required by the court, the Idaho depart-
34 ment of correction, or the Idaho commission of pardons and parole.

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

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

41 ~~(e) (d)~~ The ~~board~~ department of correction shall have authority to
42 deny, revoke, restrict or suspend a certification if standards or qual-
43 ifications are not met or to otherwise monitor a provider.

44 ~~(f) (e)~~ Establish and implement standard protocols for sexual offender
45 management, assessment and classification based on current and evol-
46 ving best practices.

1 ~~(g)~~ (f) Manage and maintain the records of the former sexual offender
2 classification board.

3 (3) The ~~board~~ department of correction shall have authority to promul-
4 gate rules to carry out the provisions of this ~~chapter~~ section and section
5 18-8316, Idaho Code.

6 (4) The board of correction shall create an advisory panel, the members
7 of which shall be compensated as provided in section 59-509(b), Idaho Code,
8 to assist the department of correction in carrying out the provisions of this
9 section. Members of the advisory panel shall include at least one (1) of each
10 of the following: a prosecutor, a defense attorney, a law enforcement offi-
11 cer with experience in sex offense cases, a member of the state judiciary, a
12 member of the state legislature, a representative from the department of ju-
13 venile corrections, a member of the public, and a person who by education,
14 experience, and training has expertise in:

15 (a) Post-conviction sexual offender polygraph examination;

16 (b) Cultural diversity and behavior of sexual offenders, as they relate
17 to assessment and treatment; and

18 (c) The assessment and treatment of adult sexual offenders or juvenile
19 sexual offenders.

20 (5) The chair of the advisory panel created in subsection (4) of this
21 section shall be selected by the board of correction from among the members
22 of the panel.

23 (6) The board of correction shall solicit recommendations from the
24 chief justice of the Idaho supreme court for any members of the advisory
25 panel representing the state judiciary pursuant to subsection (4) of this
26 section, and any members representing the judiciary shall be nonvoting mem-
27 bers.

28 (7) Any standards, policies, or rules established pursuant to this sec-
29 tion affecting juvenile sexual offenders or professionals who work with ju-
30 venile sexual offenders shall include the Idaho department of juvenile cor-
31 rections in their development and approval.

32 (8) Certifications pursuant to this section of persons who are in good
33 standing on July 1, 2024, shall remain in effect until July 1, 2025, or until
34 the expiration date of such certification, whichever is later.

35 SECTION 5. That Section [18-8315](#), Idaho Code, be, and the same is hereby
36 repealed.

37 SECTION 6. That Section 18-8316, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 18-8316. REQUIREMENT FOR PSYCHOSEXUAL EVALUATIONS UPON CONVIC-
40 TION. If ordered by the court, an offender convicted of any offense listed
41 in section 18-8304, Idaho Code, may submit to an evaluation to be completed
42 and submitted to the court in the form of a written report from a certified
43 evaluator as defined in section 18-8303, Idaho Code, for the court's con-
44 sideration prior to sentencing and incarceration or release on probation.
45 The court shall select the certified evaluator from a central roster of
46 evaluators compiled by the ~~sexual offender management board~~ department of
47 correction. A certified evaluator performing such an evaluation shall be
48 disqualified from providing any treatment ordered as a condition of any sen-

1 tence, unless waived by the court. An evaluation conducted pursuant to this
2 section shall be done in accordance with the standards established by the
3 ~~board~~ department of correction pursuant to section 18-8314, Idaho Code.

4 SECTION 7. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2024.