

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 34

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 18-8304, IDAHO CODE, TO REVISE A PROVISION REGARDING APPLICABILITY.

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

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

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 ~~sexual~~ penetration by use of a foreign object); 18-8602(1) (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,

1 coaching, teaching, supervising or working with minors in any way regardless
2 of the period of employment, whether such employment is financially compen-
3 sated, volunteered or performed for the purpose of any government or educa-
4 tion benefit.

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

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

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

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

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

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

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

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

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

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

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

40 SECTION 2. That Section 18-8304, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The pro-
43 visions of this chapter shall apply to any person who:

44 (a) On or after July 1, 1993, is convicted of the crime, or an at-
45 tempt, a solicitation, or a conspiracy to commit a crime provided for
46 in section 18-909 (assault with intent to commit rape, infamous crime
47 against nature, or lewd and lascivious conduct with a minor, but ex-
48 cluding mayhem, murder or robbery), 18-911 (battery with intent to
49 commit rape, infamous crime against nature, or lewd and lascivious

1 conduct with a minor, but excluding mayhem, murder or robbery), 18-919
2 (sexual exploitation by a medical care provider), 18-925 (aggravated
3 sexual battery), 18-1505B (sexual abuse and exploitation of a vul-
4 nerable adult), 18-1506 (sexual abuse of a child under sixteen years
5 of age), 18-1506A (ritualized abuse of a child), felony violations of
6 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with
7 a minor child), 18-1508A (sexual battery of a minor child sixteen or
8 seventeen years of age), 18-1509A (enticing a child over the inter-
9 net), 18-4003(d) (murder committed in perpetration of rape), 18-4116
10 (indecent exposure, but excluding a misdemeanor conviction), 18-4502
11 (first degree kidnapping committed for the purpose of rape, committing
12 the infamous crime against nature or for committing any lewd and las-
13 civious act upon any child under the age of sixteen, or for purposes of
14 sexual gratification or arousal), 18-4503 (second degree kidnapping
15 where the victim is an unrelated minor child), 18-5605 (detention for
16 prostitution), 18-5609 (inducing person under eighteen years of age
17 into prostitution), 18-5610 (utilizing a person under eighteen years of
18 age for prostitution), 18-5611 (inducing person under eighteen years of
19 age to patronize a prostitute), 18-6101 (rape, but excluding 18-6101(1)
20 where the defendant is eighteen years of age), 18-6110 (sexual contact
21 with a prisoner), 18-6602 (incest), 18-6605 (crime against nature),
22 18-6608 (forcible ~~sexual~~ penetration by use of a foreign object),
23 18-6609 (video voyeurism where the victim is a minor or upon a second
24 or subsequent conviction), 18-7804 (if the racketeering act involves
25 kidnapping of a minor) or 18-8602(1) (sex trafficking), Idaho Code.

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

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

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

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

49 (2) An offender shall not be required to comply with the registration
50 provisions of this chapter while incarcerated in a correctional institution

1 of the department of correction, a county jail facility, committed to the de-
2 partment of juvenile corrections or committed to a mental health institution
3 of the department of health and welfare.

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

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