

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 71, As Amended in the Senate

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE VULNERABLE CHILD PROTECTION ACT; AMENDING CHAPTER 15, TITLE
2 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1506C, IDAHO CODE,
3 TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROHIBIT CERTAIN PRACTICES
4 UPON A CHILD, TO PROVIDE CERTAIN EXEMPTIONS, TO PROVIDE A PENALTY, AND
5 TO PROVIDE SEVERABILITY; AMENDING SECTION 19-5307, IDAHO CODE, TO PRO-
6 VIDE A CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.
7

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

9 SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 18-1506C, Idaho Code, and to read as follows:

12 18-1506C. VULNERABLE CHILD PROTECTION. (1) This section shall be
13 known and may be cited as the "Vulnerable Child Protection Act."

14 (2) As used in this section:

15 (a) "Child" means any person under eighteen (18) years of age; and

16 (b) "Sex" means the immutable biological and physiological charac-
17 teristics, specifically the chromosomes and internal and external
18 reproductive anatomy, genetically determined at conception and gener-
19 ally recognizable at birth, that define an individual as male or female.

20 (3) A medical provider shall not engage in any of the following prac-
21 tices upon a child for the purpose of attempting to alter the appearance of or
22 affirm the child's perception of the child's sex if that perception is incon-
23 sistent with the child's biological sex:

24 (a) Performing surgeries that sterilize or mutilate, or artificially
25 construct tissue with the appearance of genitalia that differs from the
26 child's biological sex, including castration, vasectomy, hysterecto-
27 my, oophorectomy, metoidioplasty, orchiectomy, penectomy, phal-
28 loplasty, clitoroplasty, vaginoplasty, vulvoplasty, ovariectomy, or
29 reconstruction of the fixed part of the urethra with or without metoid-
30 ioplasty, phalloplasty, scrotoplasty, or the implantation of erection
31 or testicular prostheses;

32 (b) Performing a mastectomy;

33 (c) Administering or supplying the following medications that induce
34 profound morphologic changes in the genitals of a child or induce tran-
35 sient or permanent infertility:

36 (i) Puberty-blocking medication to stop or delay normal puberty;

37 (ii) Supraphysiological doses of testosterone to a female; or

38 (iii) Supraphysiological doses of estrogen to a male; or

39 (d) Removing any otherwise healthy or nondiseased body part or tissue.

40 (4) A surgical operation or medical intervention shall not be a viola-
41 tion of this section if the operation or intervention is:

1 (a) Necessary to the health of the person on whom it is performed and is
2 performed by a person licensed in the place of its performance as a med-
3 ical practitioner, except that a surgical operation or medical inter-
4 vention is never necessary to the health of the child on whom it is per-
5 formed if it is for the purpose of attempting to alter the appearance of
6 or affirm the child's perception of the child's sex if that perception
7 is inconsistent with the child's biological sex;

8 (b) For the treatment of any infection, injury, disease, or disorder
9 that has been caused or exacerbated by the performance of gender transi-
10 tion procedures, whether or not the procedures were performed in accor-
11 dance with state and federal law; or

12 (c) Performed in accordance with the good faith medical decision of a
13 parent or guardian of a child born with a medically verifiable genetic
14 disorder of sex development, including:

15 (i) A child with external biological sex characteristics that
16 are ambiguous and irresolvable, such as a child born having 46, XX
17 chromosomes with virilization, 46, XY chromosomes with underviril-
18 ization, or with both ovarian and testicular tissue; or

19 (ii) When a physician has otherwise diagnosed a disorder of sex-
20 ual development in which the physician has determined through ge-
21 netic testing that the child does not have the normal sex chro-
22 mosome structure, sex steroid hormone production, or sex steroid
23 hormone action for a male or female.

24 (5) Any medical professional convicted of a violation of this section
25 shall be guilty of a felony and shall be imprisoned in the state prison for a
26 term of not more than ten (10) years.

27 (6) The provisions of this act are hereby declared to be severable,
28 and if any provision of this act or the application of such provision to any
29 person or circumstance is declared invalid for any reason, such declaration
30 shall not affect the validity of the remaining portions of this section.

31 SECTION 2. That Section 19-5307, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 19-5307. FINES IN CASES OF CRIMES OF VIOLENCE. (1) Irrespective of any
34 penalties set forth under state law, and in addition thereto, the court, at
35 the time of sentencing or such later date as deemed necessary by the court,
36 may impose a fine not to exceed five thousand dollars (\$5,000) against any
37 defendant found guilty of any felony listed in subsections (2) and (3) of
38 this section.

39 The fine shall operate as a civil judgment against the defendant and
40 shall be entered on behalf of the victim named in the indictment or infor-
41 mation, or the family of the victim in cases of homicide or crimes against
42 children, and shall not be subject to any distribution otherwise required
43 in section 19-4705, Idaho Code. The clerk of the district court may collect
44 the fine in the same manner as other fines imposed in criminal cases are
45 collected and shall remit any money collected in payment of the fine to the
46 victim named in the indictment or information or to the family of the victim
47 in a case of homicide or crimes against minor children, provided that none
48 of the provisions of this section shall be construed as modifying the provi-
49 sions of chapter 6, title 11, Idaho Code, chapter 10, title 55, Idaho Code, or

1 section 72-802, Idaho Code. A fine created under this section shall be a sep-
 2 arate written order in addition to any other sentence the court may impose.

3 The fine contemplated in this section shall be ordered solely as a puni-
 4 tive measure against the defendant and shall not be based upon any require-
 5 ment of showing of need by the victim. The fine shall not be used as a substi-
 6 tute for an order of restitution as contemplated in section 19-5304, Idaho
 7 Code, nor shall such an order of restitution or order of compensation en-
 8 tered in accordance with section 72-1018, Idaho Code, be offset by the entry
 9 of such fine.

10 A defendant may appeal a fine created under this section in the same man-
 11 ner as any other aspect of a sentence imposed by the court. The imposition of
 12 a fine created under this section shall not preclude the victim from seeking
 13 any other legal remedy; provided that in any civil action brought by or on be-
 14 half of the victim, the defendant shall be entitled to offset the amount of
 15 any fine imposed pursuant to this section against any award of punitive dam-
 16 ages.

17 (2) The felonies for which a fine created under this section may be im-
 18 posed are those described in:

19 Section 18-805, Idaho Code (Aggravated arson);

20 Section 18-905, Idaho Code (Aggravated assault);

21 Section 18-907, Idaho Code (Aggravated battery);

22 Section 18-909, Idaho Code (Assault with intent to commit a serious
 23 felony);

24 Section 18-911, Idaho Code (Battery with intent to commit a serious
 25 felony);

26 Section 18-913, Idaho Code (Felonious administration of drugs);

27 Section 18-918, Idaho Code (Felony domestic violence);

28 Section 18-923, Idaho Code (Attempted strangulation);

29 Section 18-1501, Idaho Code (Felony injury to children);

30 Section 18-1506, Idaho Code (Sexual abuse of a child under the age of
 31 sixteen);

32 Section 18-1506A, Idaho Code (Ritualized abuse of a child);

33 Section 18-1506B, Idaho Code (Female genital mutilation of a child);

34 Section 18-1506C, Idaho Code (Vulnerable child protection);

35 Section 18-1507, Idaho Code (Sexual exploitation of a child);

36 Section 18-1508, Idaho Code (Lewd conduct with a child under the age of
 37 sixteen);

38 Section 18-1508A, Idaho Code (Sexual battery of a minor child sixteen or
 39 seventeen years of age);

40 Section 18-4001, Idaho Code (Murder);

41 Section 18-4006, Idaho Code (Felony manslaughter);

42 Section 18-4014, Idaho Code (Administering poison with intent to kill);

43 Section 18-4015, Idaho Code (Assault with intent to murder);

44 Section 18-4502, Idaho Code (First degree kidnapping);

45 Section 18-5001, Idaho Code (Mayhem);

46 Section 18-5501, Idaho Code (Poisoning food, medicine or wells);

47 Section 18-6101, Idaho Code (Rape);

48 Section 18-6501, Idaho Code (Robbery).

1 (3) Notwithstanding the provisions of section 18-306(4) and (5), Idaho
2 Code, the fine created under this section may also be imposed up to five thou-
3 sand dollars (\$5,000) for attempts of the felonies described in:
4 Section 18-4001, Idaho Code (Murder);
5 Section 18-6101, Idaho Code (Rape).

6 SECTION 3. This act shall be in full force and effect on and after Jan-
7 uary 1, 2024.