

**Idaho**

**TITLE 18**

**CRIMES AND PUNISHMENTS**

**CHAPTER 15**

**CHILDREN AND VULNERABLE ADULTS**

18-1506. SEXUAL ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN YEARS. (1) It is a felony for any person eighteen (18) years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child or third party, to:

- (a) solicit a minor child under the age of sixteen (16) years to participate in a sexual act, or
- (b) cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in section 18-1508, Idaho Code, or
- (c) make any photographic or electronic recording of such minor child.

(2) For the purposes of this section "solicit" means any written, verbal, or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purposes of this section "sexual contact" means any physical contact between such minor child and any person, which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed fifteen (15) years.

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**18-1506A. RITUALIZED ABUSE OF A CHILD -- EXCLUSIONS -- PENALTIES --**

**DEFINITION.** (1) A person is guilty of a felony when he commits any of the following acts with, upon, or in the presence of a child as part of a ceremony, rite or any similar observance:

- (a) Actually or in simulation, tortures, mutilates or sacrifices any warm-blooded animal or human being;
- (b) Forces ingestion, injection or other application of any narcotic, drug, hallucinogen or anaesthetic for the purpose of dulling sensitivity, cognition, recollection of, or resistance to any criminal activity;
- (c) Forces ingestion, or external application, of human or animal urine, feces, flesh, blood, bones, body secretions, nonprescribed drugs or chemical compounds;
- (d) Involves the child in a mock, unauthorized or unlawful marriage ceremony with another person or representation of any force or diety, followed by sexual contact with the child;
- (e) Places a living child into a coffin or open grave containing a human corpse or remains;
- (f) Threatens death or serious harm to a child, his parents, family, pets or friends which instills a well-founded fear in the child that the threat will be carried out; or
- (g) Unlawfully dissects, mutilates, or incinerates a human corpse.

(2) The provisions of this section shall not be construed to apply to:

- (a) Lawful agricultural, animal husbandry, food preparation or wild game hunting and fishing practices and specifically the branding or identification of livestock;
- (b) The lawful medical practice of circumcision or any ceremony related thereto; or
- (c) Any state or federally approved, licensed or funded research project.

(3) The penalty upon conviction of a first offense shall be imprisonment

in the state prison for a term of not to exceed fifteen (15) years. Upon conviction of a second or subsequent offense, the penalty shall be for a term not more than life imprisonment.

(4) For the purposes of this section, "child" means any person under eighteen (18) years of age.

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18-1507. SEXUAL EXPLOITATION OF A CHILD. (1) The legislature hereby finds and declares that the commercial sexual exploitation of children constitutes a wrongful invasion of the child's right of privacy and results in social, developmental, and emotional injury to the child; that a child below the age of eighteen (18) years is incapable of giving informed consent to the use of his or her body for a commercial purpose; and that to protect children from commercial sexual exploitation it is necessary to prohibit the production for trade or commerce of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce.

(2) As used in this section, unless the context otherwise requires:

(a) "Bestiality" means a sexual connection in any manner between a human being and any animal.

(b) "Child" means a person who is less than eighteen (18) years of age.

(c) "Commercial purpose" means the intention, objective, anticipation, or expectation of monetary gain or other material consideration, compensation, remuneration, or profit.

(d) "Erotic fondling" means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved. "Erotic fondling" shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(e) "Erotic nudity" means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(f) "Explicit sexual conduct" means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.

(g) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(h) "Sadomasochism" means:

1. Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or
2. The real or simulated condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(i) "Sexual excitement" means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(j) "Sexual intercourse" means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(k) "Sexually exploitative material" means any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material which depicts a child engaged in, participating in, observing, or being used for explicit sexual conduct.

(3) A person commits sexual exploitation of a child if, for any commercial purpose, he knowingly:

(a) Causes, induces, or permits a child to engage in, or be used for, any explicit sexual conduct; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses, or distributes any sexually exploitative material.

(4) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(5) The sexual exploitation of a child is a felony and shall be punishable by imprisonment in the state prison for a period not to exceed fifteen (15) years or by a fine not to exceed twenty-five thousand dollars (\$25,000) or by both such fine and imprisonment.

(6) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

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18-1508. LEWD CONDUCT WITH MINOR CHILD UNDER SIXTEEN. Any person who shall commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of bestiality or sado-masochism as defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

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18-1508A. SEXUAL BATTERY OF A MINOR CHILD SIXTEEN OR SEVENTEEN YEARS OF AGE -- PENALTY. (1) It is a felony for any person at least five (5) years of age older than a minor child who is sixteen (16) or seventeen (17) years of age, who, with the intent of arousing, appealing to or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve

such minor child in any act of explicit sexual conduct as defined in section 18-1507, Idaho Code; or

- (b) Solicit such minor child to participate in a sexual act; or
- (c) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in paragraph (a) of this subsection; or
- (d) Make any photographic or electronic recording of such minor child.

(2) For the purpose of subsection (b) of this section, "solicit" means any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purpose of this section, "sexual contact" means any physical contact between such minor child and any person or between such minor children which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of subsection (1)(a) of this section shall be imprisoned in the state prison for a period not to exceed life.

(5) Any person guilty of a violation of the provisions of subsections (1)(b), (1)(c), or (1)(d) of this section shall be imprisoned in the state prison for a period not to exceed fifteen (15) years.

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18-1509. ENTICING OF CHILDREN. (1) A person shall be guilty of a misdemeanor if that person attempts to persuade, or persuades, whether by words or actions or both, a minor child under the age of sixteen (16) years to either:

- (a) Leave the child's home or school; or
- (b) Enter a vehicle or building; or
- (c) Enter a structure or enclosed area, or alley, with the intent that the child shall be concealed from public view;

while the person is acting without the authority of (i) the custodial parent of the child, (ii) the state of Idaho or a political subdivision thereof or (iii) one having legal custody of the minor child. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of aid or assistance to a minor child.

(2) Every person who is convicted of a violation of the provisions of this section shall be punished by imprisonment in the county or municipal jail for not more than six (6) months or by a fine of not more than one thousand dollars (\$1,000) or by both such fine and imprisonment. A person convicted a second or subsequent time of violating the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary for a period of time of not more than five (5) years.

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18-1509A. ENTICING OF CHILDREN OVER THE INTERNET -- PENALTIES --

JURISDICTION. (1) A person aged eighteen (18) years or older shall be guilty of a felony if he or she knowingly uses the internet to solicit, seduce, lure, persuade or entice by words or actions, or both, a minor child under the age of sixteen (16) years or a person the defendant believes to be a minor child under the age of sixteen (16) years to engage in any sexual act with or against the child where such act is a violation of chapter 15, 61 or 66, title 18, Idaho Code.

(2) Every person who is convicted of a violation of this section shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years.

(3) It shall not constitute a defense against any charge or violation of

this section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this section.

(4) The offense is committed in the state of Idaho for purposes of determining jurisdiction if the transmission that constitutes the offense either originates in or is received in the state of Idaho.

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