

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 619

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO SEX OFFENDERS; AMENDING SECTION 18-8303, IDAHO CODE, TO RE-  
2 VISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
3 18-8307, IDAHO CODE, TO PROVIDE THAT INABILITY TO PAY A REGISTRATION  
4 FEE SHALL NOT RESULT IN FAILURE TO REGISTER AND TO AUTHORIZE A SHERIFF  
5 TO PLACE AN OFFENDER ON A PAYMENT PLAN IN CERTAIN INSTANCES; AMENDING  
6 SECTION 18-8329, IDAHO CODE, TO PROVIDE THAT A CERTAIN ACT REGARDING  
7 CHILDREN SHALL BE A MISDEMEANOR AND TO MAKE TECHNICAL CORRECTIONS; AND  
8 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
9

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

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

13 18-8303. DEFINITIONS. As used in this chapter:

14 (1) "Aggravated offense" means any of the following crimes: 18-1506A  
15 (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder  
16 committed in the perpetration of rape); 18-4502 (first-degree kidnapping  
17 committed for the purpose of rape, committing an infamous crime against na-  
18 ture, committing any lewd and lascivious act upon any child under the age of  
19 sixteen years or for purposes of sexual gratification or arousal); 18-4503  
20 (second-degree kidnapping where the victim is an unrelated minor child and  
21 the kidnapping is committed for the purpose of rape, committing an infamous  
22 crime against nature, committing any lewd and lascivious act upon any child  
23 under the age of sixteen years or for purposes of sexual gratification or  
24 arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim  
25 is at least twelve years of age or the defendant is eighteen years of age);  
26 18-6608 (forcible penetration by use of a foreign object); 18-8602(1) (a) (i)  
27 (sex trafficking); and any other offense set forth in section 18-8304, Idaho  
28 Code, if at the time of the commission of the offense the victim was below the  
29 age of thirteen (13) years or an offense that is substantially similar to any  
30 of the foregoing offenses under the laws of another jurisdiction or military  
31 court or the court of another country.

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

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

36 (4) "Certified evaluator" means either a psychiatrist licensed by this  
37 state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral  
38 level mental health professional licensed by this state pursuant to chap-  
39 ter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall  
40 have by education, experience, and training, expertise in the assessment and  
41 treatment of sexual offenders, and such person shall meet the qualifications

1 and shall be approved by the board to perform psychosexual evaluations in  
2 this state, as described in section 18-8314, Idaho Code.

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

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

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

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

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

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

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

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

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

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

38 (15) "Residence" means the offender's ~~present place of abode~~ true,  
39 fixed, and permanent home and place of habitation where he intends to remain  
40 and to which he expects to return when he leaves, without intending to estab-  
41 lish a new domicile elsewhere.

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

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

49 SECTION 2. That Section 18-8307, Idaho Code, be, and the same is hereby  
50 amended to read as follows:

1 18-8307. REGISTRATION. (1) Registration shall consist of a form pro-  
2 vided by the department and approved by the attorney general, which shall be  
3 signed by the offender and shall require the information set forth in subsec-  
4 tion (1) of section 18-8305, Idaho Code.

5 (2) At the time of registration, the sheriff shall obtain a photograph  
6 and fingerprints, in a manner approved by the department, and require the of-  
7 fender to provide full palm print impressions of each hand. A violent sexual  
8 predator shall pay a fee of fifty dollars (\$50.00) to the sheriff at the time  
9 of the first calendar quarter registration and ten dollars (\$10.00) per reg-  
10 istration every subsequent quarter in the same calendar year. All other of-  
11 fenders shall pay an annual fee of eighty dollars (\$80.00) to the sheriff for  
12 registration. The sheriff may waive the registration fee if the violent sex-  
13 ual predator or other offender demonstrates indigency. The fees collected  
14 under this section shall be used by the sheriff to defray the costs of violent  
15 sexual predator and other sexual offender registration and verification and  
16 for electronic notification, law enforcement information sharing and track-  
17 ing. Irrespective of the classification or designation of the offender or  
18 predator, each county shall cause forty dollars (\$40.00) per offender per  
19 year of the fees collected under this section to be used for development,  
20 continuous use and maintenance of a statewide electronic notification, in-  
21 formation sharing and tracking system as implemented by the Idaho sheriffs'  
22 association. Inability to pay the eighty-dollar (\$80.00) registration fee  
23 required under this subsection shall not result in a failure to register such  
24 offender, and the sheriff may place the offender on a payment plan for such  
25 fee if the offender is unable to pay. Any such inability to pay the registra-  
26 tion fee, a demonstration of indigence, or an agreed upon payment plan set by  
27 a sheriff shall not exempt an offender from all other requirements and provi-  
28 sions of this chapter.

29 (3) The sheriff shall forward the completed and signed form, pho-  
30 tograph, fingerprints and palm prints to the department within three (3)  
31 working days of the registration.

32 (a) The official conducting the registration shall ensure that the no-  
33 tification form is complete and that the offender has read and signed  
34 the form.

35 (b) No person subject to registration shall furnish false or misleading  
36 information when complying with registration and notification require-  
37 ments of this chapter.

38 (4)(a) Within two (2) working days of coming into any county to es-  
39 tablish residence, an offender shall register with the sheriff of the  
40 county. The offender thereafter shall register annually, unless the  
41 offender is designated as a violent sexual predator, in which case the  
42 offender shall register with the sheriff every three (3) months as pro-  
43 vided in this section. If the offender intends to reside in another  
44 jurisdiction, the offender shall register in the other jurisdiction  
45 within two (2) days of moving to that jurisdiction and will not be re-  
46 moved from the sexual offender registry in Idaho until registration in  
47 another jurisdiction is complete.

48 (b) A nonresident required to register pursuant to section  
49 18-8304(1)(b), Idaho Code, shall register with the sheriff of the  
50 county where employed or enrolled as a student within two (2) working

1 days of the commencement of employment or enrollment as a student in  
2 an educational institution, provided that nonresidents employed in  
3 counseling, coaching, teaching, supervising or working with minors in  
4 any way, regardless of the period of employment, must register prior to  
5 the commencement of such employment.

6 (5) Registration shall be conducted as follows:

7 (a) For violent sexual predators the department shall mail a nonfor-  
8 wardable notice of quarterly registration to the offender's last re-  
9 ported address within three (3) months following the last registration;

10 (b) For all other sex offenders the department shall mail an annual,  
11 nonforwardable notice of registration to the offender's last reported  
12 address;

13 (c) Within five (5) days of the mailing date of the notice, the offender  
14 shall appear in person at the office of the sheriff in the county in  
15 which the offender is required to register for the purpose of completing  
16 the registration process;

17 (d) If the notice is returned to the department as not delivered, the  
18 department shall inform the sheriff with whom the offender last regis-  
19 tered of the returned notice.

20 (6) All written notifications of duty to register as provided herein  
21 shall include a warning that it is a felony as provided in section 18-8327,  
22 Idaho Code, for an offender to accept employment in any day care center,  
23 group day care facility or family day care home, as those terms are defined in  
24 chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises  
25 of a day care center, group day care facility or family day care home while  
26 children are present, other than to drop off or pick up the offender's child  
27 or children.

28 (7) An offender shall keep the registration current for the full regis-  
29 tration period. The full registration period is for life; however, offend-  
30 ers may petition for release from the full registration period as set forth  
31 in section 18-8310, Idaho Code.

32 SECTION 3. That Section 18-8329, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 18-8329. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED ACCESS TO SCHOOL  
35 CHILDREN -- EXCEPTIONS. (1) If a person is currently registered or is re-  
36 quired to register under the sex offender registration act as provided in  
37 chapter 83, title 18, Idaho Code, it is a misdemeanor for such person to:

38 (a) Be upon or to remain on the premises of any school building or school  
39 grounds in this state, upon the premises or grounds of any daycare, or  
40 upon other properties posted with a notice that they are used by a school  
41 or daycare, when the person has reason to believe children under the age  
42 of eighteen (18) years are present and are involved in a school or day-  
43 care activity, or when children are present within thirty (30) minutes  
44 before or after a scheduled school or daycare activity.

45 (b) Knowingly loiter on a public way within five hundred (500) feet from  
46 the property line of school or daycare grounds in this state, includ-  
47 ing properties posted with a notice that they are used by a school or  
48 daycare, when children under the age of eighteen (18) years are present  
49 and are involved in a school or daycare activity, or when children are

1 present within thirty (30) minutes before or after a scheduled school or  
2 daycare activity.

3 (c) Be in any conveyance owned or leased by a school or daycare to trans-  
4 port students to or from school or daycare or a school- or daycare-re-  
5 lated activity when children under the age of eighteen (18) years are  
6 present in the conveyance.

7 (d) Meet or gather with one (1) or more children under the age of eigh-  
8 teen (18) years on the premises of any school building or school grounds  
9 in this state, upon the premises or grounds of any daycare, or upon other  
10 properties posted with a notice that they are used by a school or day-  
11 care.

12 (e) Reside within five hundred (500) feet of the property on which a  
13 school or daycare is located, measured from the nearest point of the ex-  
14 terior wall of the offender's dwelling unit to the school's or daycare's  
15 property line, provided however, that this paragraph shall not apply  
16 if such person's residence was established prior to July 1, 2006, for  
17 a school, and prior to July 1, 2020, for a daycare in existence on that  
18 date. This paragraph shall not apply to such person whose residence is  
19 established prior to the establishment of a daycare within five hundred  
20 (500) feet of his dwelling unit.

21 (ef) For purposes of this chapter, "school" means any public or private  
22 school. "Daycare" means any licensed daycare as defined in chapter 11,  
23 title 39, Idaho Code.

24 The posted notices required in this subsection shall be at least one hundred  
25 (100) square inches, shall make reference to this section 18-8329, Idaho  
26 Code, shall include the term "registered sex offender" and shall be placed at  
27 all public entrances to the property.

28 (2) The provisions of subsection (1) (a) and (b) of this section shall  
29 not apply when the person:

30 (a) Is a student in attendance at the school; or

31 (b) Is exercising his right to vote in public elections; or

32 (c) Is taking delivery of his mail through an official post office lo-  
33 cated on school grounds; or

34 (d) Contacts the school district or daycare office annually and prior  
35 to his first visit of a school year and has obtained written permission  
36 from the district or daycare to be on the school or daycare grounds or  
37 upon other property posted with a notice that the property is used by  
38 a school or daycare. For the purposes of this section, "contacts the  
39 school district or daycare office" shall include mail, facsimile ma-  
40 chine, or by computer using the internet. The provisions of this sub-  
41 section are required for an individual who:

42 (i) Is dropping off or picking up a child or children and the per-  
43 son is the child's or children's parent or legal guardian; or

44 (ii) Is attending an academic conference or other scheduled ex-  
45 tracurricular school event with school officials present when the  
46 offender is a parent or legal guardian of a child who is partic-  
47 ipating in the conference or extracurricular event. "Extracur-  
48 ricular" means any school-sponsored activity that is outside the  
49 regular curriculum, occurring during or outside regular school

1 hours, including but not limited to academic, artistic, athletic  
2 or recreational activities; or

3 (iii) Is temporarily on school or daycare grounds, during school  
4 hours, for the purpose of making a mail, food, or other delivery.

5 (3) The provisions of subsection (1) (~~de~~) of this section shall not ap-  
6 ply when the person:

7 (a) Resides at a state-licensed or certified facility for incarceration,  
8 health, or convalescent care; or

9 (b) Stays at a homeless shelter or resides at a recovery facility, if  
10 such shelter or facility has been approved for sex offenders by the  
11 county sheriff or municipal police chief.

12 (4) Nothing in this section shall prevent a school district or daycare  
13 from adopting more stringent safety and security requirements for employees  
14 and nonemployees while they are in district or daycare facilities and/or on  
15 district or daycare properties. If adopting more stringent safety and se-  
16 curity requirements, the school district or daycare shall provide the re-  
17 quirements to any individual listed in subsection (2) (d) (i) through (iii) by  
18 mail, facsimile machine, or by computer using the internet.

19 SECTION 4. An emergency existing therefor, which emergency is hereby  
20 declared to exist, this act shall be in full force and effect on and after  
21 July 1, 2022.