

IN THE SENATE

SENATE BILL NO. 1095, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8303, IDAHO  
2 CODE, TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING CHAPTER 83,  
3 TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8306A, IDAHO  
4 CODE, TO PROVIDE FOR THE DETERMINATION OF RISK-BASED SEXUAL OFFENDER  
5 REGISTRATION LEVELS; AMENDING SECTION 18-8307, IDAHO CODE, TO REVISE  
6 THE REGISTRATION FEE, TO REVISE FREQUENCY OF REGISTRATION FOR LEVELS OF  
7 REGISTRATION, TO REVISE LENGTH OF REGISTRATION TERMS FOR LEVELS OF REG-  
8 ISTRATION AND TO REVISE TERMINOLOGY; AMENDING SECTION 18-8308, IDAHO  
9 CODE, TO REVISE ADDRESS VERIFICATION PROCEDURES, TO REVISE ELECTRONIC  
10 MONITORING REQUIREMENTS FOR CERTAIN SEXUAL OFFENDERS AND TO REVISE  
11 TERMINOLOGY; AMENDING SECTION 18-8310, IDAHO CODE, TO REVISE THE TERM  
12 OF ELIGIBILITY TO PETITION FOR RELEASE FROM REGISTRATION REQUIREMENTS,  
13 TO PROVIDE FOR ADDITIONAL DOCUMENTATION TO BE SUBMITTED TO THE COURTS  
14 FOR RELEASE FROM REGISTRATION CONSIDERATION, TO PROVIDE NOTIFICATION  
15 TO THE SEXUAL OFFENDER MANAGEMENT BOARD AND TO MAKE A TECHNICAL CORREC-  
16 TION; REPEALING SECTION 18-8310, IDAHO CODE, RELATING TO RELEASE FROM  
17 REGISTRATION REQUIREMENTS AND EXPUNGEMENT; AMENDING CHAPTER 83, TITLE  
18 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8310, IDAHO CODE,  
19 TO PROVIDE THAT CERTAIN OFFENDERS MAY BE RELEASED FROM REGISTRATION  
20 REQUIREMENTS, TO PROVIDE FOR THE REQUIREMENTS OF A PETITION FOR RELEASE  
21 FROM REGISTRATION AND TO PROVIDE PROCEDURES FOR DETERMINING IF AN OF-  
22 FENDER SHALL BE RELEASED FROM REGISTRATION AND FOR EXPUNGEMENT; AMEND-  
23 ING SECTION 18-8314, IDAHO CODE, TO AUTHORIZE CERTAIN POWERS AND DUTIES  
24 FOR THE SEXUAL OFFENDER MANAGEMENT BOARD AND TO PROVIDE FOR THE TRANSFER  
25 OF RECORDS OF THE SEXUAL OFFENDER CLASSIFICATION BOARD TO THE SEXUAL  
26 OFFENDER MANAGEMENT BOARD; AMENDING SECTION 18-8318, IDAHO CODE, TO  
27 REVISE CODE REFERENCES AND TO PROVIDE THAT AN OFFENDER SHALL PAY CERTAIN  
28 COSTS; AMENDING SECTION 18-8323, IDAHO CODE, TO PROVIDE THAT CERTAIN  
29 SEXUAL OFFENDER REGISTRY INFORMATION SHALL NOT BE DISCLOSED; AMENDING  
30 SECTION 18-8324, IDAHO CODE, TO PROVIDE THAT CERTAIN SEXUAL OFFENDER  
31 REGISTRY INFORMATION SHALL BE AVAILABLE TO CERTAIN PARTIES; AMENDING  
32 SECTION 18-8328, IDAHO CODE, TO REMOVE REFERENCE TO JUVENILE OFFEND-  
33 ERS; AMENDING CHAPTER 83, TITLE 18, IDAHO CODE, BY THE ADDITION OF A  
34 NEW SECTION 18-8332, IDAHO CODE, TO PROVIDE AUTHORIZATION FOR CRIMINAL  
35 HISTORY CHECKS BY THE BOARD; AMENDING SECTION 20-219, IDAHO CODE, TO  
36 REVISE PROVISIONS RELATING TO ELECTRONIC MONITORING OF CERTAIN SEXUAL  
37 OFFENDERS UNDER FELONY SUPERVISION BY THE BOARD OF CORRECTION; AMENDING  
38 SECTION 16-1602, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO REVISE  
39 A DEFINITION; AMENDING SECTION 16-2005, IDAHO CODE, TO REMOVE A CODE  
40 REFERENCE AND TO PROVIDE THAT TERMINATION OF PARENTAL RIGHTS IS IN THE  
41 BEST INTERESTS OF THE CHILD UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING  
42 AN EFFECTIVE DATE.  
43

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

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

3 18-8303. DEFINITIONS. As used in this chapter:

4 (1) ~~"Aggravated offense" means any of the following crimes: 18-1506A~~  
5 ~~(ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder~~  
6 ~~committed in the perpetration of rape); 18-4502 (first-degree kidnapping~~  
7 ~~committed for the purpose of rape, committing an infamous crime against na-~~  
8 ~~ture, committing any lewd and lascivious act upon any child under the age of~~  
9 ~~sixteen years or for purposes of sexual gratification or arousal); 18-4503~~  
10 ~~(second degree kidnapping where the victim is an unrelated minor child and~~  
11 ~~the kidnapping is committed for the purpose of rape, committing an infamous~~  
12 ~~crime against nature, committing any lewd and lascivious act upon any child~~  
13 ~~under the age of sixteen years or for purposes of sexual gratification or~~  
14 ~~arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim~~  
15 ~~is at least twelve years of age or the defendant is eighteen years of age);~~  
16 ~~18-6108 (male rape, but excluding section 18-6108(1) where the victim is at~~  
17 ~~least twelve years of age or the defendant is eighteen years of age); 18-6608~~  
18 ~~(forcible sexual penetration by use of a foreign object); 18-8602(1) (sex~~  
19 ~~trafficking); and any other offense set forth in section 18-8304, Idaho~~  
20 ~~Code, if at the time of the commission of the offense the victim was below the~~  
21 ~~age of thirteen years or an offense that is substantially similar to any of~~  
22 ~~the foregoing offenses under the laws of another jurisdiction or military~~  
23 ~~court or the court of another country.~~

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

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

28 ~~(4) "Certified evaluator" means either a psychiatrist licensed by~~  
29 ~~this state pursuant to chapter 18, title 54, Idaho Code, or a master's or~~  
30 ~~doctoral level mental health professional licensed by this state pursuant~~  
31 ~~to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person~~  
32 ~~shall have by education, experience and training, expertise in the as-~~  
33 ~~essment and treatment of sexual offenders, and such person shall meet the~~  
34 ~~qualifications and shall be approved by the board to perform psychosexual~~  
35 ~~evaluations in this state, as described in section 18-8314, Idaho Code.~~

36 ~~(5) "Certified polygraph examiner" means a polygraph examiner who has~~  
37 ~~received specialized postconviction sex offender testing training, and who~~  
38 ~~is certified by the board pursuant to section 18-8314, Idaho Code, to con-~~  
39 ~~duct postconviction sexual offender polygraph examinations as ordered or~~  
40 ~~required by the court, Idaho department of correction, Idaho commission of~~  
41 ~~pardons and parole or the Idaho department of juvenile corrections.~~

42 ~~(6) "Certified treatment provider" means a person who has been cer-~~  
43 ~~tified by the board pursuant to section 18-8314, Idaho Code, as meeting~~  
44 ~~qualifications to provide sexual offender treatment as ordered by the court,~~  
45 ~~Idaho department of correction, Idaho commission of pardons and parole or~~  
46 ~~the Idaho department of juvenile corrections. Such person shall be li-~~  
47 ~~icensed by this state or another state or jurisdiction as a psychiatrist~~  
48 ~~or a master's or doctoral level mental health professional, and who has by~~

1 education, experience and training, expertise in the treatment of sexual  
2 offenders.

3 (6) "Continuous time in the community" means the period of time an  
4 offender lives in the community without incarceration in a jail or correc-  
5 tional facility for any offense for which imprisonment for more than six (6)  
6 months was imposed. A break in community status may be reviewed by the board  
7 or court for waiver consideration.

8 (7) "Default level four (4) registration" means the default level of  
9 sexual offender registration for offenders who have not been reviewed by the  
10 board for a risk-based registration level and who do not meet the require-  
11 ments for default level five (5) registration, or for an offender who re-  
12 ceived a risk-based registration level designation by the board and who is  
13 subsequently convicted of a felony nonsexual offense.

14 (8) "Default level five (5) registration" means the default level of  
15 registration for an offender who:

16 (a) Has a conviction meeting the provisions for registration under this  
17 chapter for any of the following crimes:

18 (i) Ritualized abuse of a child pursuant to section 18-1506A,  
19 Idaho Code;

20 (ii) Murder committed in perpetration of rape pursuant to section  
21 18-4003(d), Idaho Code;

22 (iii) First degree kidnapping committed for the purpose of rape,  
23 committing the infamous crime against nature or for committing any  
24 lewd and lascivious act upon any child under the age of sixteen  
25 (16), or for purposes of sexual gratification or arousal pursuant  
26 to section 18-4502, Idaho Code; or

27 (iv) An offense that is substantially equivalent to any of the  
28 foregoing offenses under the laws of another jurisdiction or mili-  
29 tary court or the court of another country;

30 (b) Is a recidivist as defined in this section. For purposes of reg-  
31 istration level determination, a person convicted two (2) or more times  
32 solely of any category A offense as defined by the board does not qualify  
33 as a recidivist; or

34 (c) Has previously been designated as a violent sexual predator by the  
35 sexual offender classification board.

36 (9) "Department" means the Idaho state police.

37 (10) "Eligible party" means an agency authorized to request a review of  
38 a sexual offender's registration level status. Eligible parties shall in-  
39 clude the sheriff of the county in which the offender resides, the prosecut-  
40 ing attorney of the county in which the offender was convicted of the regis-  
41 terable offense, the Idaho department of correction and the Idaho commission  
42 of pardons and parole.

43 (11) "Employed" means full-time or part-time employment exceeding ten  
44 (10) consecutive working days or for an aggregate period exceeding thirty  
45 (30) days in any calendar year, or any employment which involves counseling,  
46 coaching, teaching, supervising or working with minors in any way regardless  
47 of the period of employment, whether such employment is financially compen-  
48 sated, volunteered or performed for the purpose of any government or educa-  
49 tion benefit.

1 (712) "Foreign conviction" means a conviction under the laws of Canada,  
 2 Great Britain, Australia or New Zealand or a conviction under the laws of any  
 3 foreign country deemed by the U.S. department of state, in its country re-  
 4 ports on human rights practices, to have been obtained with sufficient safe-  
 5 guards for fundamental fairness and due process.

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

9 (914) "Jurisdiction" means any of the following: a state, the District  
 10 of Columbia, the commonwealth of Puerto Rico, Guam, American Samoa, the  
 11 Northern Mariana Islands, the United States Virgin Islands, the federal  
 12 government or a federally recognized Indian tribe.

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

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

21 (127) "Offense" means a sexual offense listed in section 18-8304, Idaho  
 22 Code.

23 (138) "Psychosexual evaluation" means an evaluation which specifically  
 24 addresses sexual development, sexual deviancy, sexual history and risk of  
 25 reoffense as part of a comprehensive evaluation of an offender.

26 (149) "Recidivist" means an individual convicted ~~two (2) or more times~~  
 27 ~~of any offense requiring registration under this chapter~~ of an offense re-  
 28 quiring registration under the provisions of this chapter and who at the  
 29 time of the offense had previously been convicted of one (1) or more offenses  
 30 listed in section 18-8304, Idaho Code, or a substantially equivalent offense  
 31 in another jurisdiction or military court or the court of another country.

32 (1520) "Residence" means the offender's present place of abode.

33 (21) "Risk-based registration level" means a level of sexual offender  
 34 registration as determined by the board.

35 (1622) "Student" means a person who is enrolled on a full-time or  
 36 part-time basis, in any public or private educational institution, includ-  
 37 ing any secondary school, trade or professional institution or institution  
 38 of higher education.

39 (1723) "Violent sexual predator" means a person who was designated as  
 40 a violent sexual predator by the ~~sex~~ sexual offender classification board  
 41 where such designation has not been removed by judicial action or otherwise.

42 SECTION 2. That Chapter 83, Title 18, Idaho Code, be, and the same is  
 43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 44 ignated as Section 18-8306A, Idaho Code, and to read as follows:

45 18-8306A. DETERMINATION OF RISK-BASED REGISTRATION LEVEL. (1) On or  
 46 before July 1, 2016, the board shall develop by rule, procedures for a risk-  
 47 based registration determination system comprised of five (5) levels. The  
 48 registration determination system shall include:

- 1 (a) A scoring matrix that considers the sexual offender's crime of con-  
 2 viction, presenting risk factors and current psychosexual evaluation;  
 3 (b) Time frames under which a sexual offender or an eligible party may  
 4 petition for review of a default level four (4) registration;  
 5 (c) Time frames under which a sexual offender or an eligible party may  
 6 petition for review of a risk-based registration level determination;  
 7 (d) The review process to be utilized by the board to make a registra-  
 8 tion determination, including:

9 (i) Documentation that may be utilized in completing the scoring  
 10 matrix as provided in this subsection; and

11 (ii) A process to issue a recommended registration determination  
 12 and the opportunity for a hearing to be held before the board or a  
 13 designated hearing officer during which the sexual offender will  
 14 receive notice and an opportunity to be heard on the matter before  
 15 the recommended registration determination becomes final;

16 (e) Procedures to notify the sexual offender, department and sheriff of  
 17 the county in which the sexual offender resides of the board's registra-  
 18 tion determination, provided that notifications to the sexual offender  
 19 shall be made by certified mail, return receipt requested; and

20 (f) Procedures to appeal the board's registration determination.

21 (2) A review for risk-based registration level determination shall be  
 22 conducted by the board on any sexual offender who resides in Idaho, who was  
 23 designated as a violent sexual predator by the sexual offender classifica-  
 24 tion board. The board shall be responsible for the costs of this review, in-  
 25 cluding the psychosexual evaluation.

26 (3) Upon determining that the sexual offender has not received the  
 27 board's notice of registration determination pursuant to this section, the  
 28 board shall notify the sheriff of the county in which the offender resides.  
 29 This notice shall be in writing and shall be delivered in a manner that will  
 30 ensure receipt by the sheriff. Upon request of the board, the sheriff may  
 31 personally serve the offender with the board's notice, or the sheriff may  
 32 verify the offender's address and advise the board in order that notice may  
 33 once again be served. If, after the second attempt to serve the offender, the  
 34 board or sheriff determines that the offender has not updated registration  
 35 information pursuant to section 18-8309, Idaho Code, the matter shall be  
 36 referred for prosecution pursuant to section 18-8311, Idaho Code.

37 SECTION 3. That Section 18-8307, Idaho Code, be, and the same is hereby  
 38 amended to read as follows:

39 18-8307. REGISTRATION. (1) Registration shall consist of a form pro-  
 40 vided by the department and approved by the attorney general, which shall be  
 41 signed by the offender and shall require the information set forth in subsec-  
 42 tion (1) of section 18-8305, Idaho Code.

43 (2) At the time of registration, the sheriff shall obtain a photograph  
 44 and fingerprints, in a manner approved by the department, and require the of-  
 45 fender to provide full palm print impressions of each hand. ~~A violent sexual~~  
 46 ~~predator shall pay a~~ The fee of fifty for registration shall be eighty dol-  
 47 lars (\$5080.00) to the sheriff at the time of the first calendar quarter reg-  
 48 istration and ten dollars (\$10.00) per registration every subsequent quar-  
 49 ter in the same calendar year. All other offenders shall pay an annual fee of

1 ~~eighty dollars (\$80.00) to the sheriff for registration annually.~~ The sher-  
2 iff may waive the registration fee if the ~~violent sexual predator or other~~  
3 offender demonstrates indigency. The fees collected under this section  
4 shall be used by the sheriff to defray the costs of ~~violent sexual predator~~  
5 ~~and other~~ sexual offender registration and verification and for electronic  
6 notification, law enforcement information sharing and tracking. Irrespec-  
7 tive of the classification or designation of the offender ~~or predator~~, each  
8 county shall cause forty dollars (\$40.00) per offender per year of the fees  
9 collected under this section to be used for development, continuous use and  
10 maintenance of a statewide electronic notification, information sharing and  
11 tracking system as implemented by the Idaho sheriffs' association.

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

15 (a) The official conducting the registration shall ensure that the no-  
16 tification form is complete and that the offender has read and signed  
17 the form.

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

21 (4) (a) Within two (2) working days of coming into any county to es-  
22 tablish residence, an offender shall register with the sheriff of the  
23 county. The offender thereafter shall register ~~annually, unless the~~  
24 ~~offender is designated as a violent sexual predator, in which case the~~  
25 ~~offender shall register with the sheriff every three (3) months as pro-~~  
26 ~~vided in this section.~~ If the offender intends to reside in another  
27 jurisdiction, the offender shall register in the other jurisdiction  
28 within two (2) days of moving to that jurisdiction and will not be re-  
29 moved from the sexual offender registry in Idaho until registration in  
30 another jurisdiction is complete.

31 (b) A nonresident required to register pursuant to section  
32 18-8304(1)(b), Idaho Code, shall register with the sheriff of the  
33 county where employed or enrolled as a student within two (2) working  
34 days of the commencement of employment or enrollment as a student in  
35 an educational institution, provided that nonresidents employed in  
36 counseling, coaching, teaching, supervising or working with minors in  
37 any way, regardless of the period of employment, must register prior to  
38 the commencement of such employment.

39 (5) Registration shall be conducted as follows:

40 (a) ~~For violent sexual predators the department shall mail a non-~~  
41 ~~forwardable notice of quarterly registration to the offender's last~~  
42 ~~reported address within three (3) months following the last registra-~~  
43 ~~tion~~ An adult level one (1), level two (2) or level three (3) sexual  
44 offender shall register with the sheriff annually as provided in this  
45 section. The department shall mail an annual, nonforwardable notice of  
46 registration to the offender's last reported address;

47 (b) ~~For all other sex offenders the department shall mail an annual,~~  
48 ~~nonforwardable notice of registration to the offender's last reported~~  
49 ~~address~~ A level four (4) sexual offender shall register with the sheriff  
50 every six (6) months as provided in this section. The department shall

1 mail a nonforwardable notice of biannual registration to the offender's  
 2 last reported address within six (6) months following the last regis-  
 3 tration;

4 (c) A level five (5) offender shall register with the sheriff every  
 5 three (3) months as provided in this section. The department shall mail  
 6 a nonforwardable notice of quarterly registration to the offender's  
 7 last reported address within three (3) months following the last regis-  
 8 tration;

9 (d) Within five (5) days of the mailing date of the notice, the offender  
 10 shall appear in person at the office of the sheriff in the county in  
 11 which the offender is required to register for the purpose of completing  
 12 the registration process;

13 (de) If the notice is returned to the department as not delivered, the  
 14 department shall inform the sheriff with whom the offender last regis-  
 15 tered of the returned notice.

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

24 (7) An offender shall keep the registration current for the full reg-  
 25 istration ~~period term~~. ~~The full registration period is for life; h~~However,  
 26 offenders may petition for release from the full registration ~~period term~~ as  
 27 set forth in section 18-8310, Idaho Code.

28 (a) The full registration term for a level one (1) sexual offender is  
 29 ten (10) years of continuous time in the community following the date  
 30 the offender was released from incarceration or placed on parole, su-  
 31 pervised release or probation, whichever is later;

32 (b) The full registration term for a level two (2) sexual offender is  
 33 twenty (20) years of continuous time in the community following the date  
 34 the offender was released from incarceration or placed on parole, su-  
 35 pervised release or probation, whichever is later;

36 (c) The full registration term for a level three (3) sexual offender is  
 37 thirty (30) years of continuous time in the community following the date  
 38 the offender was released from incarceration or placed on parole, su-  
 39 pervised release or probation, whichever is later;

40 (d) The full registration term for a level four (4) sexual offender is  
 41 forty (40) years of continuous time in the community following the date  
 42 the offender was released from incarceration or placed on parole, on su-  
 43 pervised release or probation, whichever is later;

44 (e) The full registration term for a level five (5) sexual offender is  
 45 for life.

46 SECTION 4. That Section 18-8308, Idaho Code, be, and the same is hereby  
 47 amended to read as follows:

48 18-8308. VERIFICATION OF ADDRESS AND ELECTRONIC MONITORING ~~OF VIO-~~  
 49 ~~LENT SEXUAL PREDATORS.~~ (1) The address or physical residence of an offender

1 ~~designated as a violent sexual predator shall be verified by the department~~  
2 ~~between registrations or the sheriff between registrations as provided~~  
3 ~~herein. The sheriff may enter into a written cooperative agreement with~~  
4 ~~another law enforcement agency to verify residences of sexual offenders.~~

5 ~~(a) The procedure for verification shall be as follows:~~

6 ~~(i) The department shall mail a nonforwardable notice of address~~  
7 ~~verification every thirty (30) days between registrations, to~~  
8 ~~each offender designated as a violent sexual predator.~~

9 ~~(ii) Each offender designated as a violent sexual predator shall~~  
10 ~~complete, sign and return the notice of address verification form~~  
11 ~~to the department within seven (7) days of the mailing date of the~~  
12 ~~notice. If the notice of address verification is returned to the~~  
13 ~~department as not delivered, or if the signed notice is not re-~~  
14 ~~turned on time, the department shall, within five (5) days, notify~~  
15 ~~the sheriff with whom the offender designated as a violent sexual~~  
16 ~~predator last registered.~~

17 ~~(iii) The sheriff shall verify the address of the offender by vis-~~  
18 ~~iting the offender's residence once every six (6) months or, if the~~  
19 ~~offender fails to comply with the provisions of paragraph (a) (ii)~~  
20 ~~of this subsection, at any reasonable time to verify the address~~  
21 ~~provided at registration.~~

22 ~~(2) The address or physical residence of any sex offender not des-~~  
23 ~~ignated as a violent sexual predator shall be verified by the department~~  
24 ~~between registrations. The procedure for address verification shall be as~~  
25 ~~follows:~~

26 ~~(a) The department shall mail a nonforwardable notice of address veri-~~  
27 ~~fication every four (4) months between annual registrations and:~~

28 ~~(i) For each offender designated as level one (1) or level two (2)~~  
29 ~~sexual offender, the sheriff shall verify the address of the of-~~  
30 ~~fender if the offender fails to comply with the provisions of para-~~  
31 ~~graph (d) of this subsection, at any reasonable time to verify the~~  
32 ~~address provided at registration; or~~

33 ~~(ii) For each offender designated as level three (3) sexual of-~~  
34 ~~fender, the sheriff shall verify the address of the offender by~~  
35 ~~visiting the offender's residence once every year and, if the of-~~  
36 ~~fender fails to comply with the provisions of paragraph (d) of this~~  
37 ~~subsection, at any reasonable time to verify the address provided~~  
38 ~~at registration.~~

39 ~~(b) Each offender shall complete, sign and return the notice of address~~  
40 ~~verification form to the department within seven (7) days of the mailing~~  
41 ~~date of the notice. If the notice of address verification is returned~~  
42 ~~as not delivered or if the signed notice is not returned on time, the de-~~  
43 ~~partment shall notify the sheriff within five (5) days and the sheriff~~  
44 ~~shall visit the residence of the registered offender at any reasonable~~  
45 ~~time to verify the address provided at registration For a level four (4)~~  
46 ~~sexual offender:~~

47 ~~(i) The department shall mail a nonforwardable notice of address~~  
48 ~~verification every three (3) months between registrations; and~~

49 ~~(ii) The sheriff shall verify the address of the offender by~~  
50 ~~visiting the offender's residence once every year and, if the of-~~

1            fender fails to comply with the provisions of paragraph (d) of this  
2            subsection, at any reasonable time to verify the address provided  
3            at registration.

4            (c) For a level five (5) sexual offender:

5            (i) The department shall mail a nonforwardable notice of address  
6            verification every thirty (30) days between registrations; and

7            (ii) The sheriff shall verify the address of the offender by vis-  
8            iting the offender's residence once every six (6) months and, if  
9            the offender fails to comply with the provisions of paragraph (d)  
10           of this subsection, at any reasonable time to verify the address  
11           provided at registration.

12           (d) Each sexual offender shall complete, sign and return the notice  
13           of address verification form to the department within seven (7) days of  
14           the mailing date of the notice. If the notice of address verification is  
15           returned to the department as not delivered, or if the signed notice is not  
16           returned on time, the department shall within five (5) days notify the sher-  
17           iff with whom the offender last registered.

18           (3) Any individual designated as a violent sexual predator shall level  
19           five (5) sexual offender may be monitored with electronic monitoring tech-  
20           nology for the duration of the individual's offender's probation or parole  
21           period as set forth in section 20-219(2), Idaho Code. Any person who, with-  
22           out authority, intentionally alters, tampers with, damages or destroys any  
23           electronic monitoring equipment required to be worn or used by a violent sex-  
24           ual predator level five (5) sexual offender shall be guilty of a felony.

25           (4) A sexual offender who does not provide a physical residence address  
26           at the time of registration shall report, in person, once every seven (7)  
27           days to the sheriff of the county in which he resides. Each time the offender  
28           reports to the sheriff, he shall complete a form provided by the department  
29           that includes the offender's name, date of birth, social security number and  
30           a detailed description of the location where he is residing. The sheriff  
31           shall visit the described location at least once each month to verify the lo-  
32           cation of the offender.

33           SECTION 5. That Section 18-8310, Idaho Code, be, and the same is hereby  
34           amended to read as follows:

35           18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1)  
36           Registration under this act is for life; however, any offender, other than  
37           a recidivist, an offender who has been convicted of an aggravated offense,  
38           or an offender designated as a violent sexual predator, may, after a period  
39           of ten (10) years from the date the offender was released from incarceration  
40           or placed on parole, supervised release or probation, whichever is greater  
41           Any offender other than a level five (5) sexual offender may, after a pe-  
42           riod equal to one-half (1/2) the full registration term as outlined in sec-  
43           tion 18-8307, Idaho Code, petition the district court for a show cause hear-  
44           ing to determine whether the offender shall be exempted from the duty to reg-  
45           ister as a sexual offender. Such period shall require continuous time in the  
46           community following the date the offender was released from incarceration or  
47           placed on parole, supervised release or probation, whichever is greater. If  
48           the offender was convicted in Idaho, the offender shall file his or her peti-  
49           tion in the county in which he or she was convicted. If the offender was con-

1 victed in a jurisdiction other than Idaho, ~~then~~ the offender shall file his  
2 or her petition in the county in which he or she resides. In the petition, the  
3 petitioner shall:

4 (a) Provide clear and convincing evidence that the petitioner has com-  
5 pleted any periods of supervised release, probation or parole without  
6 revocation;

7 (b) Provide an affidavit indicating that the petitioner does not have  
8 a criminal charge pending nor is the petitioner knowingly under crimi-  
9 nal investigation for any violent crime or crime identified in section  
10 18-8304, Idaho Code;

11 (c) Provide proof of service of such petition and supporting documents  
12 upon the county prosecuting attorney for the county in which the appli-  
13 cation is made ~~and~~, upon the central registry and upon the board;

14 (d) Provide a certified copy of the judgment of conviction which caused  
15 the petitioner to report as a sexual offender;

16 (e) Provide clear and convincing evidence that the petitioner has suc-  
17 cessfully completed a sexual offender treatment program;

18 (f) Provide an affidavit demonstrating that the petitioner has no  
19 felony convictions during the period for which the petitioner has been  
20 registered; ~~and~~

21 (g) Provide an affidavit demonstrating that the petitioner has commit-  
22 ted no sex offenses during the period for which the petitioner has been  
23 registered;

24 (h) Provide an affidavit demonstrating that the petitioner has main-  
25 tained continuous time in the community as provided in this chapter; and

26 (i) Provide a copy of a current psychosexual evaluation completed  
27 within one (1) year of the petition by an evaluator certified by the  
28 board pursuant to section 18-8314, Idaho Code.

29 (2) The county prosecuting attorney and the central registry may submit  
30 evidence, including by affidavit, rebutting the assertions contained within  
31 the offender's petition, affidavits or other documents filed in support of  
32 the petition.

33 (3) The district court may grant a hearing if it finds that the petition  
34 is sufficient. The court shall provide at least sixty (60) days' prior no-  
35 tice of the hearing to the petitioner, the county prosecuting attorney and  
36 the central registry. The central registry and the board may appear or par-  
37 ticipate as ~~a party~~ parties.

38 (4) The court may exempt the petitioner from the registration require-  
39 ment only after a hearing on the petition in open court and only upon proof by  
40 clear and convincing evidence and upon written findings of fact and conclu-  
41 sions of law by the court that:

42 (a) The petitioner has complied with the requirements set forth in sub-  
43 section (1) of this section;

44 (b) The court has reviewed the petitioner's criminal history and  
45 has determined that the petitioner ~~is not a recidivist~~, has not been  
46 convicted of an aggravated offense or has not been designated as a  
47 violent sexual predator level five (5) sexual offender and is not other-  
48 wise ineligible for removal from the registry; and

1 (c) It is highly probable or reasonably certain the petitioner is not a  
2 risk to commit a new violation for any violent crime or crime identified  
3 in section 18-8304, Idaho Code.

4 (5) Concurrent with the entry of any order exempting the petitioner  
5 from the registration requirement, the court may further order that any in-  
6 formation regarding the petitioner be expunged from the central registry.

7 SECTION 6. That Section 18-8310, Idaho Code, be, and the same is hereby  
8 repealed.

9 SECTION 7. That Chapter 83, 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 18-8310, Idaho Code, and to read as follows:

12 18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1)  
13 Any offender other than a level five (5) sexual offender may, after a pe-  
14 riod equal to one-half (1/2) the full registration term as outlined in  
15 section 18-8307, Idaho Code, petition the board for a hearing to determine  
16 whether the offender shall be exempted from the duty to register as a sexual  
17 offender. Such period shall require continuous time in the community fol-  
18 lowing the date the offender was released from incarceration or placed on  
19 parole, supervised release or probation, whichever is greater.

20 (2) In the petition, the petitioner shall:

21 (a) Provide clear and convincing evidence that the petitioner has com-  
22 pleted any periods of supervised release, probation or parole without  
23 revocation;

24 (b) Provide an affidavit indicating that the petitioner does not have  
25 a criminal charge pending nor is the petitioner knowingly under crimi-  
26 nal investigation for any violent crime or crime identified in section  
27 18-8304, Idaho Code;

28 (c) Provide proof of service of such petition and supporting documents  
29 upon the county prosecuting attorney for the Idaho county in which the  
30 offender was convicted or the county in which the offender resides if  
31 the conviction was in another jurisdiction and upon the central reg-  
32 istry;

33 (d) Provide a certified copy of the judgment of conviction which caused  
34 the petitioner to report as a sexual offender;

35 (e) Provide clear and convincing evidence that the petitioner has suc-  
36 cessfully completed a sexual offender treatment program;

37 (f) Provide an affidavit demonstrating that the petitioner has no  
38 felony convictions during the period for which the petitioner has been  
39 registered;

40 (g) Provide an affidavit demonstrating that the petitioner has commit-  
41 ted no sexual offenses during the period for which the petitioner has  
42 been registered;

43 (h) Provide an affidavit demonstrating that the petitioner has main-  
44 tained continuous time in the community as provided in this chapter; and

45 (i) Provide a copy of a current psychosexual evaluation completed  
46 within one (1) year of the petition by an evaluator certified by the  
47 board pursuant to section 18-8314, Idaho Code.

1 (3) The county prosecuting attorney and the central registry may submit  
2 evidence, including by affidavit, rebutting the assertions contained within  
3 the offender's petition, affidavits or other documents filed in support of  
4 the petition.

5 (4) The board may grant a hearing if it finds that the petition is suffi-  
6 cient. The board shall provide at least sixty (60) days' prior notice of the  
7 hearing to the petitioner, the county prosecuting attorney and the central  
8 registry. The central registry may appear or participate as a party.

9 (5) The board may exempt the petitioner from the registration require-  
10 ment only after an open hearing on the petition and only upon proof by clear  
11 and convincing evidence that:

12 (a) The petitioner has complied with the requirements set forth in sub-  
13 section (2) of this section;

14 (b) The board has reviewed the petitioner's criminal history and has  
15 determined that the petitioner has not been designated as a level five  
16 (5) sexual offender and is not otherwise ineligible for removal from the  
17 registry; and

18 (c) It is highly probable or reasonably certain the petitioner is not  
19 a risk to commit a new violation for any crime identified in section  
20 18-8304, Idaho Code.

21 (6) Concurrent with the entry of any order exempting the petitioner  
22 from the registration requirement, the board may further order that any in-  
23 formation regarding the petitioner be expunged from the central registry.

24 (7) The petitioner may appeal the decision of the board to the district  
25 court of the county in which he or she resides pursuant to section 67-5273,  
26 Idaho Code.

27 SECTION 8. That Section 18-8314, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER MANAGEMENT  
30 BOARD. (1) The board shall develop, advance and oversee sound sexual of-  
31 fender management policies and practices statewide as demonstrated by  
32 evidence-based best practices.

33 (2) The board shall carry out the following duties:

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

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

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

42 (ii) Professionals providing treatment to adult or juvenile sex-  
43 ual offenders as ordered or required by the court, Idaho depart-  
44 ment of correction, Idaho commission of pardons and parole or the  
45 Idaho department of juvenile corrections; and

46 (iii) Professionals conducting postconviction sexual offender  
47 polygraphs as ordered or required by the court, Idaho department  
48 of correction ~~or~~, Idaho commission of pardons and parole or the  
49 Idaho department of juvenile corrections.

1 (c) Establish a nonrefundable processing fee not to exceed one hundred  
2 fifty dollars (\$150) for each initial certification and a nonrefundable  
3 processing fee not to exceed one hundred fifty dollars (\$150) for each  
4 annual recertification.

5 (d) Set forth and administer procedures for quality assurance of the  
6 standards and qualifications established in this section.

7 (e) The board shall have authority to deny, revoke, restrict or suspend  
8 a certification if standards or qualifications are not met or to other-  
9 wise monitor a provider.

10 (f) Establish and implement standard protocols for sexual offender  
11 management, assessment and classification based on current and evol-  
12 ving best practices.

13 (g) Set forth and administer procedures for risk-based sexual offender  
14 registration level determinations. Such procedures shall be carried  
15 out in coordination with the department and other relevant agencies.

16 (h) Set forth and administer procedures for offender release from reg-  
17 istration determinations.

18 (3) The board shall have authority to promulgate rules to carry out the  
19 provisions of this chapter.

20 (4) The board shall have authority to obtain and review offender  
21 records maintained by the board of correction and department of juvenile  
22 corrections to carry out the provisions of this chapter.

23 (5) All records of the sexual offender classification board are trans-  
24 ferred to the board for retention and review as required to carry out the pro-  
25 visions of this chapter.

26 SECTION 9. That Section 18-8318, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 18-8318. ~~OFFENDER REQUIRED TO PAY PAYMENT~~ FOR PSYCHOSEXUAL EVALUA-  
29 TION. (1) The offender shall be required to pay for the cost of the psychosex-  
30 ual evaluations performed under this chapter pursuant to section 18-8316,  
31 Idaho Code, unless the offender demonstrates indigency. In such case, the  
32 psychosexual evaluation performed pursuant to section 18-8316, Idaho Code,  
33 shall be paid for by the county. As a condition of sentence, indigent offend-  
34 ers for whom the county has paid the cost of evaluation performed pursuant to  
35 section 18-8316, Idaho Code, shall be required to repay the county for the  
36 cost.

37 (2) The offender shall be required to pay the cost of the psychosex-  
38 ual evaluation performed for risk-based registration determination review  
39 by the board, unless such review is conducted upon the request of an eligible  
40 party. In such case, the cost of the psychosexual evaluation shall be paid by  
41 the requesting party.

42 (3) The offender shall be required to pay the cost of the psychosexual  
43 evaluation performed pursuant to section 18-8310, Idaho Code, for any peti-  
44 tion for release from registration.

45 SECTION 10. That Section 18-8323, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

1 18-8323. PUBLIC ACCESS TO SEXUAL OFFENDER REGISTRY INFORMATION. In-  
2 formation within the sexual offender registry collected pursuant to this  
3 chapter is subject to release only as provided by this section.

4 (1) The department or sheriff shall provide public access to informa-  
5 tion contained in the central sexual offender registry by means of the inter-  
6 net.

7 (2) Information that shall be made available to the public is limited  
8 to:

9 (a) The offender's name including any aliases or prior names;

10 (b) The offender's date of birth;

11 (c) The address of each residence at which the offender resides or will  
12 reside and, if the offender does not have any present or expected resi-  
13 dence address, other information about where the offender has his or her  
14 home or habitually lives;

15 (d) The address of any place where the offender is a student or will be a  
16 student;

17 (e) A physical description of the offender;

18 (f) The offense for which the offender is registered and any other  
19 sexual offense for which the offender has been convicted and the place  
20 of the convictions;

21 (g) A current photograph of the offender; and

22 (h) Temporary lodging information including the place and the period of  
23 time the offender is staying at such lodging. "Temporary lodging" means  
24 any place in which the offender is staying when away from his or her resi-  
25 dence for seven (7) or more days. If current information regarding the  
26 offender's residence is not available because the offender is in viola-  
27 tion of the requirement to register or cannot be located, then the web-  
28 site shall so note.

29 (3) The following information shall not be disclosed to the public:

30 (a) The identity of the victim;

31 (b) The offender's social security number;

32 (c) Any reference to arrests of the offender that did not result in con-  
33 viction;

34 (d) Any internet identifier associated with and/or provided by the of-  
35 fender;

36 (e) Any information pertaining to the offender's passports and immi-  
37 gration documents; and

38 (f) Any information identifying any person related to, living with,  
39 working for, employing or otherwise associated with a registered sexual  
40 offender; and

41 (g) Information contained in the central sexual offender registry on  
42 any offender designated by the board as a level one (1) sexual offender.

43 (4) Where a crime category such as "incest" may serve to identify a vic-  
44 tim, that crime will be reported as a violation of section 18-1506, Idaho  
45 Code.

46 (5) The department shall include a cautionary statement relating to  
47 completeness, accuracy and use of registry information when releasing  
48 information to the public or noncriminal justice agencies as well as a state-  
49 ment concerning the penalties provided in section 18-8326, Idaho Code, for  
50 misuse of registry information.

1 (6) Information released pursuant to this section may be used only for  
2 the protection of the public.

3 (7) Further dissemination of registry information by any person or en-  
4 tity shall include the cautionary statements required in subsection (5) of  
5 this section.

6 SECTION 11. That Section 18-8324, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department  
9 shall, within three (3) business days, disseminate any registration in-  
10 formation collected under this chapter, including any changes in registry  
11 information, to:

12 (a) The attorney general of the United States for inclusion in the na-  
13 tional sex offender registry or other appropriate databases;

14 (b) Each school and public housing agency in each area in which the of-  
15 fender resides, is an employee or is a student;

16 (c) Each jurisdiction where the sexual offender resides, is an employee  
17 or is a student and each jurisdiction from or to which a change of resi-  
18 dence, employment or student status occurs;

19 (d) Criminal justice agencies through the public safety and security  
20 information system established in section 19-5202, Idaho Code;

21 (e) Any agency responsible for conducting employment-related back-  
22 ground checks under section 3 of the national child protection act of  
23 1993, 42 U.S.C. section 5119a;

24 (f) Social service entities responsible for protecting minors in the  
25 child welfare system;

26 (g) Volunteer organizations in which contact with minors or other vul-  
27 nerable adults might occur; and

28 (h) Any organization, company or individual who requests notification  
29 of changes in registry information.

30 (2) Registry information collected under this chapter on an offender  
31 designated by the board as a level one (1) sexual offender shall be made  
32 available to law enforcement and schools as provided in this section. Opera-  
33 tors of day care centers, group day care facilities and family day care homes  
34 may request registration information on any level one (1) sexual offender by  
35 submitting a written request and a copy of their license to the department.

36 (3) Registry information provided under this section shall be used only  
37 for the administration of criminal justice or for the protection of the pub-  
38 lic as permitted by this chapter.

39 (34) The department shall include a cautionary statement relating to  
40 completeness, accuracy and use of registry information when releasing in-  
41 formation to the public or noncriminal justice agencies as well as a state-  
42 ment concerning the penalties provided in section 18-8326, Idaho Code, for  
43 misuse of registry information.

44 (45) Information released pursuant to this section may be used only for  
45 the protection of the public.

46 (56) Further dissemination of registry information by any person or en-  
47 tity shall include the cautionary statements required in subsection (34) of  
48 this section.

1 SECTION 12. That Section 18-8328, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 18-8328. ACTION FOR RELIEF BY OFFENDER OR ~~JUVENILE OFFENDER~~. Any per-  
4 son who is required to register pursuant to chapter 83, title 18, Idaho Code,  
5 ~~or chapter 84, title 18, Idaho Code,~~ may file a petition in a district court  
6 in the judicial district where the person resides, to have relief from the  
7 provisions of section 18-8327 ~~or 18-8414~~, Idaho Code, pertaining to employ-  
8 ment in or being upon or remaining on the premises of a day care center, group  
9 day care facility or family day care home while children are present, other  
10 than to drop off or pick up the sex offender's ~~or juvenile sex offender's~~  
11 child or children. To be granted relief pursuant to this section, the per-  
12 son shall show by clear and convincing evidence that the person required to  
13 register pursuant to chapter 83, title 18, Idaho Code, ~~or chapter 84, ti-~~  
14 ~~tle 18, Idaho Code,~~ does not pose a threat to children in a day care center,  
15 group day care facility or family day care home, it has been at least ten (10)  
16 years since the person's last conviction, finding of guilt or adjudication  
17 that required the person to register pursuant to chapter 83, title 18, Idaho  
18 Code, ~~or chapter 84, title 18, Idaho Code,~~ and the petitioner presents testi-  
19 mony from a licensed physician or psychologist about the petitioner's chance  
20 of success of not committing an act against children.

21 SECTION 13. That Chapter 83, Title 18, Idaho Code, be, and the same is  
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
23 ignated as Section 18-8332, Idaho Code, and to read as follows:

24 18-8332. AUTHORIZATION FOR CRIMINAL HISTORY CHECKS BY THE BOARD. (1)  
25 The board shall obtain a current criminal history check on persons seeking  
26 board review of the person's risk-based registration level or for release  
27 from registration requirements pursuant to this chapter. The criminal his-  
28 tory check shall be based on a completed fingerprint card or scan and shall  
29 include for persons who are eighteen (18) years of age or older the following  
30 information from:

- 31 (a) Statewide criminal identification bureau;  
32 (b) Federal bureau of investigation (FBI) criminal history; and  
33 (c) National crime information center.

34 (2) Criminal history checks may include a check of the juvenile justice  
35 records of adjudications of the magistrate division of the district court,  
36 county probation services and records of the Idaho department of juvenile  
37 corrections.

38 (3) All persons subject to a criminal history check pursuant to this  
39 section shall be responsible for payment of all fees associated with finger-  
40 printing and background check services.

41 (4) The costs of fees associated with fingerprinting and background  
42 check services for any request made by an eligible party for risk-based reg-  
43 istration level review shall be paid by the requesting party.

44 (5) The board shall not disseminate criminal record information to a  
45 person or agency that is not a criminal justice agency or a court unless oth-  
46 erwise provided by law or court order.

1 SECTION 14. That Section 20-219, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 20-219. PROBATION AND PAROLE SUPERVISION AND TRAINING -- LIMITED SU-  
4 PERVISION -- RULEMAKING. (1) The state board of correction shall be charged  
5 with the duty of:

6 (a) Supervising all persons convicted of a felony placed on probation  
7 to the board;

8 (b) Supervising all persons released from the state penitentiary on pa-  
9 role;

10 (c) Supervising all persons convicted of a felony released on parole or  
11 probation from other states and residing in the state of Idaho;

12 (d) Program delivery, as "program" is defined in section 20-216, Idaho  
13 Code, to all persons under its probation or parole supervision based on  
14 individual criminal risk factors and specific needs;

15 (e) Making such investigations as may be necessary;

16 (f) Reporting alleged violations of parole in specific cases to the  
17 commission to aid in determining whether the parole should be continued  
18 or revoked;

19 (g) Reporting alleged violations of the terms or conditions of proba-  
20 tion in specific cases to the court and the prosecuting attorney to aid  
21 in determining whether the probation should be continued or revoked;  
22 and

23 (h) Preparing a case history record of the prisoners to assist the com-  
24 mission or the courts in determining if they should be paroled or should  
25 be released on probation.

26 (2) Any person placed on probation or parole ~~and who has been designated~~  
27 ~~as is a violent level five (5) sexual predator offender~~ pursuant to chapter  
28 83, title 18, Idaho Code, ~~shall~~ may be monitored with electronic monitor-  
29 ing technology for the duration of the person's probation or parole period.  
30 The state board of correction shall set forth procedures for the review and  
31 placement of a level five (5) sexual offender under probation or parole su-  
32 perVISION on electronic monitoring. Any person who, without authority, in-  
33 tentiously alters, tampers with, damages, or destroys any electronic moni-  
34 toring equipment shall be guilty of a felony.

35 (3) The state board of correction shall have the discretion to deter-  
36 mine the level of supervision of all persons under its supervision, except  
37 those who are being supervised by a problem solving court. "Level of super-  
38 vision" includes the determination of the following:

39 (a) The frequency, location, methods and nature of contact with the su-  
40 pervising officer;

41 (b) Testing requirements and frequency;

42 (c) Contact restrictions;

43 (d) Curfew restrictions; and

44 (e) Reporting requirements.

45 (4) Subject to the availability of moneys, caseloads for supervising  
46 officers who are supervising offenders determined by the department of cor-  
47 rection's validated risk assessment to be high or moderate risk of rearrest  
48 should not exceed an average of fifty (50) offenders per supervising offi-  
49 cer.

1 (5) In carrying out its duty to supervise felony probationers and  
2 parolees, the state board of correction shall use evidence-based practices,  
3 shall target the offender's criminal risk and need factors with appropriate  
4 supervision and intervention and shall focus resources on those identified  
5 by the board as moderate-risk and high-risk offenders. The supervision  
6 shall include:

7 (a) Use of validated risk and needs assessments of the offender that  
8 measure criminal risk factors, specific individual needs and driving  
9 variable supervision levels;

10 (b) Use of assessment results to guide supervision responses consis-  
11 tent with evidence-based practices as to the level of supervision and  
12 the practices used to reduce recidivism;

13 (c) Collateral and personal contacts with the offender and community  
14 that may be unscheduled and which shall occur as often as needed based on  
15 the offender's supervision level and risk of reoffense and based on the  
16 need to stay informed of the offender's conduct, compliance with condi-  
17 tions and progress in community-based intervention;

18 (d) Case planning for each offender assessed as moderate to high risk to  
19 reoffend; and

20 (e) Use of practical and suitable methods that are consistent with ev-  
21 idence-based practices to aid and encourage the offender to improve his  
22 or her conduct and circumstances so as to reduce the offender's risk of  
23 recidivism.

24 (6) The state board of correction shall provide all supervising of-  
25 ficers with initial and ongoing training and professional development  
26 services to support the implementation of evidence-based supervision prac-  
27 tices. All supervising officers employed as of the effective date of this  
28 section shall complete the training requirements set forth in this subsec-  
29 tion on or before July 1, 2016. All supervising officers hired after the  
30 effective date of this section shall complete the training requirements set  
31 forth in this subsection within two (2) years of their hire date. The train-  
32 ing and professional development services shall include:

33 (a) Assessment techniques;

34 (b) Case planning;

35 (c) Risk reduction and intervention strategies;

36 (d) Effective communication skills;

37 (e) Behavioral health needs;

38 (f) Application of core correctional practices, including motiva-  
39 tional interviewing, cognitive restructuring, structured skill build-  
40 ing, problem solving, reinforcement and use of authority;

41 (g) Training for supervising officers to become trainers so as to en-  
42 sure long-term and self-sufficient training capacity in the state; and

43 (h) Other topics identified by the board as evidence-based practices.

44 (7) The state board of correction shall promulgate rules in consulta-  
45 tion with the Idaho supreme court to:

46 (a) Establish a program of limited supervision for offenders who qual-  
47 ify addressing eligibility, risk and needs assessments, transfers  
48 among levels of supervision and reporting to the court and the prosecut-  
49 ing attorney.

1 (b) Establish a matrix of swift, certain and graduated sanctions  
2 and rewards to be imposed by the board in response to corresponding  
3 violations of or compliance with the terms or conditions imposed. Sanc-  
4 tions for violations shall include, but are not limited to, community  
5 service, increased reporting, curfew, submission to substance use  
6 assessment, monitoring or treatment, submission to cognitive behav-  
7 ioral treatment, submission to an educational or vocational skills  
8 development program, submission to a period of confinement in a local  
9 correctional facility for no more than three (3) consecutive days and  
10 house arrest. Rewards for compliance shall include, but are not limited  
11 to, decreased reporting and transfer to limited supervision.

12 SECTION 15. That Section 16-1602, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 16-1602. DEFINITIONS. For purposes of this chapter:

15 (1) "Abused" means any case in which a child has been the victim of:

16 (a) Conduct or omission resulting in skin bruising, bleeding, malnu-  
17 trition, burns, fracture of any bone, subdural hematoma, soft tissue  
18 swelling, failure to thrive or death, and such condition or death is not  
19 justifiably explained, or where the history given concerning such con-  
20 dition or death is at variance with the degree or type of such condition  
21 or death, or the circumstances indicate that such condition or death may  
22 not be the product of an accidental occurrence; or

23 (b) Sexual conduct, including rape, molestation, incest, prostitu-  
24 tion, obscene or pornographic photographing, filming or depiction for  
25 commercial purposes, or other similar forms of sexual exploitation  
26 harming or threatening the child's health or welfare or mental injury to  
27 the child.

28 (2) "Abandoned" means the failure of the parent to maintain a normal  
29 parental relationship with his child including, but not limited to, reason-  
30 able support or regular personal contact. Failure to maintain this rela-  
31 tionship without just cause for a period of one (1) year shall constitute  
32 prima facie evidence of abandonment.

33 (3) "Adaptive equipment" means any piece of equipment or any item that  
34 is used to increase, maintain or improve the parenting capabilities of a par-  
35 ent with a disability.

36 (4) "Adjudicatory hearing" means a hearing to determine:

37 (a) Whether the child comes under the jurisdiction of the court pur-  
38 suant to the provisions of this chapter;

39 (b) Whether continuation of the child in the home would be contrary to  
40 the child's welfare and whether the best interest of the child requires  
41 protective supervision or vesting legal custody of the child in an au-  
42 thorized agency.

43 (5) "Aggravated circumstances" includes, but is not limited to:

44 (a) Circumstances in which the parent has engaged in any of the follow-  
45 ing:

46 (i) Abandonment, chronic abuse or chronic neglect of the child.  
47 Chronic neglect or chronic abuse of a child shall consist of abuse  
48 or neglect that is so extreme or repetitious as to indicate that

1 return of the child to the home would result in unacceptable risk  
2 to the health and welfare of the child.

3 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
4 the purposes of this section, includes any conduct described in  
5 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
6 18-6108 or 18-6608, Idaho Code.

7 (iii) ~~Torture of a child; any conduct described in the code sec-~~  
8 ~~tions listed in section 18-8303(1), Idaho Code;~~ battery or an  
9 injury to a child that results in serious or great bodily in-  
10 jury to a child; voluntary manslaughter of a child, or aiding or  
11 abetting such voluntary manslaughter, soliciting such voluntary  
12 manslaughter or attempting or conspiring to commit such voluntary  
13 manslaughter; ritualized abuse of a child; lewd conduct; murder  
14 committed in the perpetration of rape; first-degree kidnapping  
15 committed for the purpose of rape, committing an infamous crime  
16 against nature, committing any lewd and lascivious act upon any  
17 child under the age of sixteen (16) years or for purposes of sex-  
18 ual gratification or arousal; second-degree kidnapping where the  
19 victim is an unrelated minor child and the kidnapping is committed  
20 for the purpose of rape, committing an infamous crime against na-  
21 ture, committing any lewd and lascivious act upon any child under  
22 the age of sixteen (16) years or for purposes of sexual gratifi-  
23 cation or arousal; rape, but excluding section 18-6101(1), Idaho  
24 Code, where the victim is at least twelve (12) years of age or the  
25 defendant is eighteen (18) years of age; male rape, but exclud-  
26 ing section 18-6108(1), Idaho Code, where the victim is at least  
27 twelve (12) years of age or the defendant is eighteen (18) years of  
28 age; forcible sexual penetration by use of a foreign object; sex  
29 trafficking; and any other offense set forth in section 18-8304,  
30 Idaho Code, if at the time of the commission of the offense the  
31 victim was below the age of thirteen (13) years or an offense that  
32 is substantially similar to any of the foregoing offenses under  
33 the laws of another jurisdiction or military court or the court of  
34 another country.

35 (b) The parent has committed murder, aided or abetted a murder, so-  
36 licited a murder or attempted or conspired to commit murder; or

37 (c) The parental rights of the parent to another child have been termi-  
38 nated involuntarily.

39 (6) "Authorized agency" means the department, a local agency, a person,  
40 an organization, corporation, benevolent society or association licensed  
41 or approved by the department or the court to receive children for control,  
42 care, maintenance or placement.

43 (7) "Case plan hearing" means a hearing to approve, modify or reject the  
44 case plan as provided in section 16-1621, Idaho Code.

45 (8) "Child" means an individual who is under the age of eighteen (18)  
46 years.

47 (9) "Child advocacy center" or "CAC" means an organization that adheres  
48 to national best practice standards established by the national membership  
49 and accrediting body for children's advocacy centers and that promotes a  
50 comprehensive and coordinated multidisciplinary team response to alle-

1 gations of child abuse by maintaining a child-friendly facility at which  
2 appropriate services are provided. These services may include forensic in-  
3 terviews, forensic medical examinations, mental health services and other  
4 related victim services.

5 (10) "Circumstances of the child" includes, but is not limited to, the  
6 joint legal custody or joint physical custody of the child.

7 (11) "Commit" means to transfer legal and physical custody.

8 (12) "Concurrent planning" means a planning model that prepares for and  
9 implements different outcomes at the same time.

10 (13) "Court" means district court or magistrate's division thereof, or  
11 if the context requires, a magistrate or judge thereof.

12 (14) "Custodian" means a person, other than a parent or legal guardian,  
13 to whom legal or joint legal custody of the child has been given by court or-  
14 der.

15 (15) "Department" means the department of health and welfare and its au-  
16 thorized representatives.

17 (16) "Disability" means, with respect to an individual, any mental or  
18 physical impairment which substantially limits one (1) or more major life  
19 activity of the individual including, but not limited to, self-care, man-  
20 ual tasks, walking, seeing, hearing, speaking, learning or working, or a  
21 record of such an impairment, or being regarded as having such an impairment.  
22 Disability shall not include transvestism, transsexualism, pedophilia,  
23 exhibitionism, voyeurism, other sexual behavior disorders, or substance use  
24 disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-  
25 ence or orientation is not considered an impairment or disability. Whether  
26 an impairment substantially limits a major life activity shall be determined  
27 without consideration of the effect of corrective or mitigating measures  
28 used to reduce the effects of the impairment.

29 (17) "Family or household member" shall have the same meaning as in sec-  
30 tion 39-6303(6), Idaho Code.

31 (18) "Foster care" means twenty-four (24) hour substitute parental care  
32 for children placed away from their parents or guardians by persons who may  
33 or may not be related to the children and for whom the state agency has place-  
34 ment and care responsibility.

35 (19) "Grant administrator" means the supreme court or any organization  
36 or agency as may be designated by the supreme court in accordance with such  
37 procedures as may be adopted by the supreme court. The grant administrator  
38 shall administer funds from the guardian ad litem account in accordance with  
39 the provisions of this chapter.

40 (20) "Guardian ad litem" means a person appointed by the court pursuant  
41 to a guardian ad litem volunteer program to act as special advocate for a  
42 child under this chapter.

43 (21) "Guardian ad litem coordinator" means a person or entity receiving  
44 moneys from the grant administrator for the purpose of carrying out any of  
45 the duties set forth in section 16-1632, Idaho Code.

46 (22) "Guardian ad litem program" means the program to recruit, train and  
47 coordinate volunteer persons to serve as guardians ad litem for abused, ne-  
48 glected or abandoned children.

49 (23) "Homeless," as used in this chapter, shall mean that the child is  
50 without adequate shelter or other living facilities, and the lack of such

1 shelter or other living facilities poses a threat to the health, safety or  
2 well-being of the child.

3 (24) "Idaho network of children's advocacy centers" means an organiza-  
4 tion that provides education and technical assistance to child advocacy cen-  
5 ters and to interagency multidisciplinary teams developed pursuant to sec-  
6 tion 16-1617, Idaho Code.

7 (25) "Law enforcement agency" means a city police department, the pros-  
8 ecuting attorney of any county, state law enforcement officers, or the of-  
9 fice of a sheriff of any county.

10 (26) "Legal custody" means a relationship created by court order, which  
11 vests in a custodian the following rights and responsibilities:

12 (a) To have physical custody and control of the child, and to determine  
13 where and with whom the child shall live.

14 (b) To supply the child with food, clothing, shelter and incidental ne-  
15 cessities.

16 (c) To provide the child with care, education and discipline.

17 (d) To authorize ordinary medical, dental, psychiatric, psychologi-  
18 cal, or other remedial care and treatment for the child, including care  
19 and treatment in a facility with a program of services for children; and  
20 to authorize surgery if the surgery is deemed by two (2) physicians li-  
21 censed to practice in this state to be necessary for the child.

22 (e) Where the parents share legal custody, the custodian may be vested  
23 with the custody previously held by either or both parents.

24 (27) "Mental injury" means a substantial impairment in the intellectual  
25 or psychological ability of a child to function within a normal range of per-  
26 formance and/or behavior, for short or long terms.

27 (28) "Neglected" means a child:

28 (a) Who is without proper parental care and control, or subsistence,  
29 medical or other care or control necessary for his well-being because of  
30 the conduct or omission of his parents, guardian or other custodian or  
31 their neglect or refusal to provide them; however, no child whose parent  
32 or guardian chooses for such child treatment by prayers through spiri-  
33 tual means alone in lieu of medical treatment shall be deemed for that  
34 reason alone to be neglected or lack parental care necessary for his  
35 health and well-being, but this subsection shall not prevent the court  
36 from acting pursuant to section 16-1627, Idaho Code; or

37 (b) Whose parents, guardian or other custodian are unable to discharge  
38 their responsibilities to and for the child and, as a result of such  
39 inability, the child lacks the parental care necessary for his health,  
40 safety or well-being; or

41 (c) Who has been placed for care or adoption in violation of law; or

42 (d) Who is without proper education because of the failure to comply  
43 with section 33-202, Idaho Code.

44 (29) "Permanency hearing" means a hearing to review, approve, reject or  
45 modify the permanency plan of the department, and review reasonable efforts  
46 in accomplishing the permanency plan.

47 (30) "Permanency plan" means a plan for a continuous residence and main-  
48 tenance of nurturing relationships during the child's minority.

49 (31) "Protective order" means an order issued by the court in a child  
50 protection case, prior to the adjudicatory hearing, to enable the child to

1 remain in the home pursuant to section 16-1615(5)(f), Idaho Code. Such an  
2 order shall be in the same form and have the same effect as a domestic vio-  
3 lence protection order issued pursuant to chapter 63, title 39, Idaho Code.  
4 A protective order shall be for a period not to exceed three (3) months unless  
5 otherwise stated in the order.

6 (32) "Protective supervision" is a legal status created by court order  
7 in a child protective case whereby the child is in the legal custody of his or  
8 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-  
9 sion by the department.

10 (33) "Relative" means a child's grandparent, great grandparent, aunt,  
11 great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
12 cousin, sibling and half-sibling.

13 (34) "Residual parental rights and responsibilities" means those  
14 rights and responsibilities remaining with the parents after the transfer of  
15 legal custody including, but not necessarily limited to, the right of visi-  
16 tation, the right to consent to adoption, the right to determine religious  
17 affiliation, the right to family counseling when beneficial, and the respon-  
18 sibility for support.

19 (35) "Shelter care" means places designated by the department for tem-  
20 porary care of children pending court disposition or placement.

21 (36) "Supportive services," as used in this chapter, shall mean ser-  
22 vices which assist parents with a disability to compensate for those aspects  
23 of their disability which affect their ability to care for their child and  
24 which will enable them to discharge their parental responsibilities. The  
25 term includes specialized or adapted training, evaluations or assistance  
26 with effectively using adaptive equipment and accommodations which allow  
27 parents with a disability to benefit from other services including, but not  
28 limited to, Braille texts or sign language interpreters.

29 SECTION 16. That Section 16-2005, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. (1) The  
32 court may grant an order terminating the relationship where it finds that  
33 termination of parental rights is in the best interests of the child and that  
34 one (1) or more of the following conditions exist:

- 35 (a) The parent has abandoned the child.  
36 (b) The parent has neglected or abused the child.  
37 (c) The presumptive parent is not the biological parent of the child.  
38 (d) The parent is unable to discharge parental responsibilities and  
39 such inability will continue for a prolonged indeterminate period and  
40 will be injurious to the health, morals or well-being of the child.  
41 (e) The parent has been incarcerated and is likely to remain incarcer-  
42 ated for a substantial period of time during the child's minority.

43 (2) The court may grant an order terminating the relationship and may  
44 rebuttably presume that such termination of parental rights is in the best  
45 interests of the child where:

- 46 (a) The parent caused the child to be conceived as a result of rape,  
47 incest, lewd conduct with a minor child under the age of sixteen (16)  
48 years, or sexual abuse of a child under the age of sixteen (16) years, as  
49 defined in sections 18-6101, 18-1508, 18-1506 and 18-6602, Idaho Code;

1 (b) The following circumstances are present:

2 (i) Abandonment, chronic abuse or chronic neglect of the child.  
3 Chronic neglect or chronic abuse of a child shall consist of abuse  
4 or neglect that is so extreme or repetitious as to indicate con-  
5 tinuing the relationship would result in unacceptable risk to the  
6 health and welfare of the child;

7 (ii) Sexual abuse against a child of the parent. Sexual abuse, for  
8 the purposes of this section, includes any conduct described in  
9 section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101,  
10 18-6108 or 18-6608, Idaho Code;

11 (iii) ~~Torture of a child; any conduct described in the code sec-~~  
12 ~~tions listed in section 18-8303(1), Idaho Code;~~ battery or an  
13 injury to a child that results in serious or great bodily in-  
14 jury to a child; voluntary manslaughter of a child, or aiding or  
15 abetting such voluntary manslaughter, soliciting such voluntary  
16 manslaughter or attempting or conspiring to commit such voluntary  
17 manslaughter; ritualized abuse of a child; lewd conduct; murder  
18 committed in the perpetration of rape; first-degree kidnapping  
19 committed for the purpose of rape, committing an infamous crime  
20 against nature, committing any lewd and lascivious act upon any  
21 child under the age of sixteen (16) years or for purposes of sex-  
22 ual gratification or arousal; second-degree kidnapping where the  
23 victim is an unrelated minor child and the kidnapping is committed  
24 for the purpose of rape, committing an infamous crime against na-  
25 ture, committing any lewd and lascivious act upon any child under  
26 the age of sixteen (16) years or for purposes of sexual gratifi-  
27 cation or arousal; rape, but excluding section 18-6101(1), Idaho  
28 Code, where the victim is at least twelve (12) years of age or the  
29 defendant is eighteen (18) years of age; male rape, but exclud-  
30 ing section 18-6108(1), Idaho Code, where the victim is at least  
31 twelve (12) years of age or the defendant is eighteen (18) years of  
32 age; forcible sexual penetration by use of a foreign object; sex  
33 trafficking; and any other offense set forth in section 18-8304,  
34 Idaho Code, if at the time of the commission of the offense the  
35 victim was below the age of thirteen (13) years or an offense that  
36 is substantially similar to any of the foregoing offenses under  
37 the laws of another jurisdiction or military court or the court of  
38 another country;

39 (iv) The parent has committed murder, aided or abetted a murder,  
40 solicited a murder or attempted or conspired to commit murder; or

41 (c) The court determines the child to be an abandoned infant, except in  
42 a parental termination action brought by one (1) parent against another  
43 parent.

44 (3) The court may grant an order terminating the relationship if termi-  
45 nation is found to be in the best interest of the parent and child.

46 (4) The court may grant an order terminating the relationship where a  
47 consent to termination in the manner and form prescribed by this chapter has  
48 been filed by the parent(s) of the child in conjunction with a petition for  
49 adoption initiated by the person or persons proposing to adopt the child,  
50 or where the consent to termination has been filed by a licensed adoption

1 agency, no subsequent hearing on the merits of the petition shall be held.  
2 Consents required by this chapter must be witnessed by a district judge or  
3 magistrate of a district court, or equivalent judicial officer of the state,  
4 where a person consenting resides or is present, whether within or without  
5 the county, and shall be substantially in the following form:

6 IN THE DISTRICT COURT OF THE.... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN  
7 AND FOR THE COUNTY OF....

8 In the Matter of the termination )  
9 of the parental rights of )  
10 ..... )  
11 ..... )

12 I (we), the undersigned, being the.... of...., do hereby give my (our)  
13 full and free consent to the complete and absolute termination of my (our)  
14 parental right(s), to the said...., who was born....., unto...., hereby  
15 relinquishing completely and forever, all legal rights, privileges, du-  
16 ties and obligations, including all rights of inheritance to and from the  
17 said...., and I (we) do hereby expressly waive my (our) right(s) to hear-  
18 ing on the petition to terminate my (our) parental relationship with the  
19 said...., and respectfully request the petition be granted.

DATED:....., 20..  
.....

22 STATE OF IDAHO )  
23 ) ss.  
24 COUNTY OF.... )

25 On this.... day of...., 20.., before me, the undersigned.....  
26 (Judge or Magistrate) of the District Court of the.... Judicial District of  
27 the state of Idaho, in and for the county of...., personally appeared....,  
28 known to me (or proved to me on the oath of....) to be the person(s) whose  
29 name(s) is (are) subscribed to the within instrument, and acknowledged to me  
30 that he (she, they) executed the same.

31 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official  
32 seal the day and year in this certificate first above written.

..... (District Judge or Magistrate)

34 The court shall accept a consent or a surrender and release executed in  
35 another state if:

36 (1) It is witnessed by a magistrate or district judge of the state where  
37 signed; or

38 (2) The court receives an affidavit or a certificate from a court of  
39 comparable jurisdiction stating that the consent or the surrender and  
40 release was executed in accordance with the laws of the state in which it  
41 was executed, or the court is satisfied by other showing that the con-  
42 sent or surrender and release was executed in accordance with the laws  
43 of the state in which it was executed; or

44 (3) The court shall accept a termination or relinquishment from a sis-  
45 ter state that has been ordered by a court of competent jurisdiction un-  
46 der like proceedings; or in any other manner authorized by the laws of a  
47 sister state. In a state where the father has failed to file notice of

1 claim to paternity and willingness to assume responsibility as provided  
2 for pursuant to the laws of such state, and where such failure consti-  
3 tutes an abandonment of such child and constitutes a termination or re-  
4 linquishment of the rights of the putative father, the court shall ac-  
5 cept such failure as a termination in this state without further hearing  
6 on the merits, if the court is satisfied that such failure constitutes  
7 a termination or relinquishment of parental rights pursuant to the laws  
8 of that state.

9 (5) Unless a consent to termination signed by the parent(s) of the child  
10 has been filed by an adoption agency licensed in the state of Idaho, or unless  
11 the consent to termination was filed in conjunction with a petition for adop-  
12 tion of the child, the court shall hold a hearing.

13 (6) If the parent has a disability, as defined in this chapter, the par-  
14 ent shall have the right to provide evidence to the court regarding the man-  
15 ner in which the use of adaptive equipment or supportive services will enable  
16 the parent to carry out the responsibilities of parenting the child. Nothing  
17 in this section shall be construed to create any new or additional obligation  
18 on state or local governments to purchase or provide adaptive equipment or  
19 supportive services for parents with disabilities.

20 SECTION 17. Sections 1 through 5 and Sections 8 through 16 of this act  
21 shall be in full force and effect on and after July 1, 2016. Sections 6 and 7  
22 of this act shall be in full force and effect on and after July 1, 2017.