

LEGISLATURE OF THE STATE OF IDAHO
Sixty-second Legislature First Regular Session - 2013

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 152

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO JUDGMENT; AMENDING SECTION 18-1508, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN TERM OF CONFINEMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-2520G, IDAHO CODE, TO REVISE AND ESTABLISH ADDITIONAL PROVISIONS RELATING TO MANDATORY MINIMUM SENTENCING; AND AMENDING SECTION 20-219, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO PAROLE SUPERVISION.

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

SECTION 1. That Section 18-1508, Idaho Code, be, and the same is hereby amended to read as follows:

18-1508. LEWD CONDUCT WITH MINOR CHILD UNDER SIXTEEN. Any person who shall commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of bestiality or ~~sado-masochism~~ sadomasochism as defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life, unless the provisions of section 19-2520G, Idaho Code, apply, then a term of confinement as set forth in section 19-2520G, Idaho Code.

SECTION 2. That Section 19-2520G, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520G. MANDATORY MINIMUM SENTENCING. (1) Pursuant to section 13, article V of the Idaho constitution, the legislature intends to provide mandatory minimum sentences for certain first time offenders who have been found guilty of or pleaded guilty to lewd conduct with a minor child and for repeat offenders who have previously been found guilty of or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the sexual exploitation of children constitutes a wrongful invasion of a child and results in social, developmental and emotional injury to the child. It is the policy of the legislature to protect children from the physical and psychological damage caused by their being used in sexual conduct. In order to protect children from becoming victims of this type of conduct by perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in ~~subsection (2) of this section.~~ By enacting mandatory minimum

1 sentences, the legislature does not seek to limit the court's power to impose
2 in any case a longer sentence as provided by law.

3 (2) Except as otherwise provided in subsection (3) of this section, any
4 person eighteen (18) years of age or older who commits any lewd or lascivi-
5 ous act pursuant to the provisions of section 18-1508, Idaho Code, against a
6 minor child who was less than twelve (12) years of age at the time of such un-
7 lawful act, shall be sentenced as follows:

8 (a) A mandatory minimum term of confinement to the custody of the state
9 board of correction for a period of not less than life; or

10 (b) A mandatory minimum term of confinement to the custody of the state
11 board of correction for a period of not less than twenty-five (25) years
12 followed by parole for the remainder of the person's natural life, dur-
13 ing which time such person shall be monitored with electronic monitor-
14 ing technology pursuant to section 20-219, Idaho Code.

15 (3) Any person eighteen (18) years of age or older who commits any lewd
16 or lascivious act pursuant to the provisions of section 18-1508, Idaho Code,
17 against a minor child who was less than twelve (12) years of age at the time of
18 such unlawful act, shall be sentenced to a mandatory minimum term of confine-
19 ment to the custody of the state board of correction for a period of not less
20 than life if it is found by the trier of fact that previous to the commission
21 of such unlawful act:

22 (a) The defendant has been found guilty of or has pleaded guilty to a vi-
23 olation of a crime or an offense committed in this state or another state
24 which, if committed in this state, would be unlawful conduct under the
25 provisions of section 18-1508, Idaho Code; and

26 (b) At the time of committing such crime or offense, the defendant was
27 eighteen (18) years of age or older and the minor child was less than
28 twelve (12) years of age.

29 (4) Except as otherwise provided in subsections (2) and (3) of this
30 section, any person who is found guilty of or pleads guilty to any offense
31 requiring sex offender registration as set forth in section 18-8304, Idaho
32 Code, or any attempt or conspiracy to commit such a crime, shall be sentenced
33 to a mandatory minimum term of confinement to the custody of the state board
34 of correction for a period of not less than fifteen (15) years, if it is
35 found by the trier of fact that previous to the commission of such crime the
36 defendant has been found guilty of or has pleaded guilty to a violation of
37 any crime or an offense committed in this state or another state which, if
38 committed in this state, would require the person to register as a sexual
39 offender as set forth in section 18-8304, Idaho Code.

40 (35) The mandatory minimum terms provided in this subsections (3) and
41 (4) of this section shall be imposed where the aggravating factor is sepa-
42 rately charged in the information or indictment and admitted by the accused
43 or found to be true by the trier of fact at a trial of the substantive crime. A
44 court shall not have the power to suspend, withhold, retain jurisdiction, or
45 commute a mandatory minimum sentence imposed pursuant to this section. Any
46 sentence imposed under the provisions of this section shall run consecutive
47 to any other sentence imposed by the court.

48 SECTION 3. That Section 20-219, Idaho Code, be, and the same is hereby
49 amended to read as follows:

1 20-219. PROBATION AND PAROLE SUPERVISION. (1) The state board of cor-
2 rection shall be charged with the duty of supervising all persons convicted
3 of a felony placed on probation or released from the state penitentiary on
4 parole, and all persons convicted of a felony released on parole or probation
5 from other states and residing in the state of Idaho; of making such inves-
6 tigations as may be necessary; of reporting alleged violations of parole or
7 probation in specific cases to the commission or the courts to aid in deter-
8 mining whether the parole or probation should be continued or revoked and of
9 preparing a case history record of the prisoners to assist the commission or
10 the courts in determining if they should be paroled or should be released on
11 probation.

12 (2) Any person placed on probation or parole and who has been desig-
13 nated as a violent sexual predator pursuant to chapter 83, title 18, Idaho
14 Code, or who is subject to the provisions of section 19-2520G(2) (b), Idaho
15 Code, shall be monitored with electronic monitoring technology for the dura-
16 tion of the person's probation or parole period. Any person who, without au-
17 thority, intentionally alters, tampers with, damages, or destroys any elec-
18 tronic monitoring equipment shall be guilty of a felony.