

Idaho State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier Two (yellow)

Total Points: 6

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; and 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking.

Categories Still Needed: 4(b) Human Trafficking Task Force; 6 Posting of a Hotline; 7 Safe Harbor for Minors; 8 Victim Assistance; 9 Civil Remedy; and 10 Vacating Convictions.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

18-8602. HUMAN TRAFFICKING DEFINED.

"Human trafficking" means:

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Category 2: Labor Trafficking Statute

Yes. See Section 18-8602.

Category 3(a): Asset Forfeiture

18-5612. PROPERTY SUBJECT TO CRIMINAL FORFEITURE.

(1) Any person who is found guilty of, who enters a plea of guilty or who is convicted of a violation of section 18-5602 or 18-5609, Idaho Code, no matter the form of the judgment or order withholding judgment, shall forfeit to the state of Idaho:

- (a) Any property constituting, or derived from, any proceeds the person obtained directly or indirectly as the result of such violation; and



(b) And of the person's property used, or intended to be used, in any manner or part to commit or to facilitate the commission of such violation.

(2) The court, in imposing sentence on such person as described in subsection (1) of this section, shall order, in addition to any other sentence imposed, that the person forfeit to the state of Idaho all property described in this section. The provisions of this chapter shall not be construed in any manner to prevent the state of Idaho, the attorney general or the appropriate prosecuting attorney from requesting restitution pursuant to section 19-5304, Idaho Code. The issue of criminal forfeiture shall be for the court alone, without submission to a jury, as a part of the sentencing procedure within the criminal action.

Category 3(b): Investigative Tools

§ 18-8502. Idaho Criminal Gang Enforcement Act: Definitions:

As used in this chapter:

(1) "Criminal gang" means an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, that has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.

(2) "Criminal gang member" means any person who engages in a pattern of criminal gang activity and who meets two (2) or more of the following criteria:

(a) Admits to gang membership;

(b) Is identified as a gang member;

(c) Resides in or frequents a particular gang's area and adopts its style of dress, its use of hand signs, or its tattoos, and associates with known gang members;

(d) Has been arrested more than once in the company of identified gang members for offenses that are consistent with usual gang activity;

(e) Is identified as a gang member by physical evidence such as photographs or other documentation; or

(f) Has been stopped in the company of known gang members four (4) or more times.

(3) "Pattern of criminal gang activity" means the commission, attempted commission or solicitation of two (2) or more of the following offenses, provided that the offenses are committed on separate occasions or by two (2) or more gang members:

(a) Robbery, as provided in section 18-6501, Idaho Code;

(b) Arson, as provided in sections 18-801 through 18-804, Idaho Code;

(c) Burglary, as provided in sections 18-1401, 18-1403, 18-1405 and 18-1406, Idaho Code;

(d) Murder or manslaughter, as provided, respectively, in sections 18-4001 and 18-4006, Idaho Code;

(e) Any violation of the provisions of chapter 27, title 37, Idaho Code;

(f) Any unlawful use or possession of a weapon, bomb or destructive device pursuant to chapter 33, title 18, Idaho Code;

(g) Assault and battery, as provided in chapter 9, title 18, Idaho Code;

(h) Criminal solicitation, as provided in section 18-2001, Idaho Code;

(i) Computer crime, as provided in section 18-2202, Idaho Code;

(j) Theft, as provided in sections 18-2401 and 18-2403, Idaho Code;

(k) Evidence falsified or concealed and witnesses intimidated or bribed, as provided in sections 18-2601 through 18-2606, Idaho Code;

(l) Forgery and counterfeiting, as provided in sections 18-3601 through 18-3603 and sections 18-3605 through 18-3616, Idaho Code;

(m) Gambling, as provided in section 18-3802, Idaho Code;



- (n) Kidnapping, as provided in sections 18-4501 through 18-4503, Idaho Code;
- (o) Mayhem, as provided in section 18-5001, Idaho Code;
- (p) Prostitution, as provided in sections 18-5601 through 18-5614, Idaho Code;
- (q) Rape, as provided in sections 18-6101, 18-6108 and 18-6110, Idaho Code;
- (r) Racketeering, as provided in section 18-7804, Idaho Code;
- (s) Malicious harassment, as provided in section 18-7902, Idaho Code;
- (t) Terrorism, as provided in section 18-8103, Idaho Code;
- (u) Money laundering and illegal investment, as provided in section 18-8201, Idaho Code;
- (v) Sexual abuse of a child under the age of sixteen years, as provided in section 18-1506, Idaho Code;
- (w) Sexual exploitation of a child, as provided in section 18-1507, Idaho Code;
- (x) Lewd conduct with minor child under sixteen, as provided in section 18-1508, Idaho Code;
- (y) Sexual battery of a minor child sixteen or seventeen years of age, as provided in section 18-1508A, Idaho Code;
- (z) Escape or rescue of prisoners, as provided in sections 18-2501 through 18-2506, Idaho Code;
- (aa) Riot, as provided in sections 18-6401 and 18-6402, Idaho Code;
- (bb) Disturbing the peace, as provided in section 18-6409, Idaho Code;
- (cc) Malicious injury to property, as provided in section 18-7001, Idaho Code;
- (dd) Injuring jails, as provided in section 18-7018, Idaho Code;
- (ee) Injury by graffiti, as provided in section 18-7036, Idaho Code; or
- (ff) Human trafficking, as provided in sections 18-8602 and 18-8603, Idaho Code.

Category 4(a): Training for Law Enforcement

18-8601. LEGISLATIVE INTENT.

It is the intent of the legislature to address the growing problem of human trafficking and to provide criminal sanctions for persons who engage in human trafficking in this state. In addition to the other provisions enumerated in this chapter, the legislature finds that it may also be appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of possible human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.

Category 4(b): Human Trafficking Task Force

None.

Category 5: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See 18-8602.

Category 6: Posting of a Human Trafficking Hotline

None.



Category 7: Safe Harbor

None.

Category 8: Victim Assistance

None.

Category 9: Civil Remedy

None.

Category 10: Vacating Convictions

None.

If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at policy@polarisproject.org.