



# IDAHO

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

## A. Criminal Statutes

### 1. Human Trafficking and Related Offenses

#### a. Idaho Code Ann. § 18-8602 *et seq.* (2019) – Human Trafficking

##### i. Summary

Idaho defines “human trafficking” as:

- (i) Sex trafficking in which commercial sexual activity 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
- (ii) 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.

Idaho Code Ann. § 18-8602(1)(a).

Human trafficking may include, but is not limited to, the use of the following types of force, fraud, or coercion:

- (i) Threatening serious harm to, or physical restraint against, that person or a third person;
- (ii) Destroying, concealing, removing, or confiscating any passport, immigration document, or other government-issued identification document;
- (iii) Abusing or threatening abuse of the law or legal process against the person or a third person;
- (iv) Using a condition of a person being a debtor due to a pledge of the debtor’s personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined; or
- (v) Using a condition of servitude by means of any scheme, plan, or pattern intended to cause a reasonable person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint or would be threatened with abuse of legal process.

Idaho Code Ann. § 18-8602(1)(b).

“Sex trafficking” includes all forms of commercial sexual activity, which may include the following conduct:

- (i) Sexual conduct, as defined in section 18-5610(2)(a) [sexual intercourse or deviate sexual intercourse];
- (ii) Sexual contact, as defined in section 18-5610(2)(b) [any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party];
- (iii) Sexually explicit performance;
- (iv) Prostitution; or
- (v) Participation in the production of pornography.

Idaho Code Ann. § 18-8602(1)(c).

“Commercial sexual activity” means “sexual conduct or sexual contact in exchange for anything of value, as defined in section 18-5610(2)(c), Idaho Code, illicit or legal, given to, received by, or promised to any person.” Idaho Code Ann. § 18-8602(2).

#### ii. Sentencing

“[A]ny person who commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in a state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law.” Idaho Code Ann. § 18-8603.

Idaho law provides that,

[i]n addition to any other amount of loss resulting from a human trafficking violation, the court shall order restitution, as applicable, including the greater of: (a) The gross income or value to the defendant of the victim’s labor or services; or (b) The value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act. ... In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims. Idaho Code Ann. § 18-8604.

#### iii. Statute of Limitations

A prosecution for human trafficking must be commenced within five years after its commission. Idaho Code Ann. § 19-402.

#### b. Idaho Code Ann. § 18-5601 (1994) – Interstate Trafficking in Prostitution

Any person “who imports persons into this state, or who exports persons from this state, for the purpose of prostitution, or any person who induces, entices or procures such activity” commits the crime of “interstate trafficking in prostitution.” Idaho Code Ann. § 18-5601.

#### c. Idaho Code Ann. § 18-8606 (2019) – Safe Harbor Provisions; Affirmative Defense

A victim of human trafficking may assert being a victim of human trafficking as an affirmative defense to most crimes committed as a direct and immediate result of being such a victim. Idaho Code Ann. § 18-8606(2).

With limited exceptions, when a minor is alleged to have committed a crime, Idaho law provides that “a prosecutor shall divert the offense if the minor committed the offense as a direct and immediate result of being a victim of human trafficking.” Idaho Code Ann. § 18-8606(1)(a). If the offense is diverted, the minor will be placed in a state-licensed residential facility that provides a comprehensive rehabilitative program, case

management, and services. Idaho Code Ann. § 18-8606(1)(b). A diversion agreement may extend up to a year, if the minor expresses “a willingness to cooperate and receive specialized services.” Idaho Code Ann. § 18-8606(1)(c)–(d). Otherwise, continuation of the diversion will be at the court’s discretion. Idaho Code Ann. § 18-8606(1)(d).

**d. Idaho Code Ann. § 18-7803(a) (2004) – Racketeering Act**

Idaho’s racketeering statute includes human trafficking as a predicate act. Idaho Code Ann. § 18-7803(a).

**2. Online Child Sexual Exploitation and Child Pornography Offenses**

Idaho Code Ann. § 18-1501 – Injury to Children

Idaho Code Ann. § 18-1506 – Sexual Abuse of a Child Under the Age of Sixteen Years

Idaho Code Ann. § 18-1507A – Sexual Exploitation of a Child by Electronic Means

Idaho Code Ann. § 18-1509A – Enticing a Child Through Use of the Internet or Other Communication Device

**3. Idaho Sex Offender Registration Act**

Sex offenders, including persons who commit the crime of sex trafficking, are required to register under the “Sexual Offender Registration Notification and Community Right-to-Know Act,” Idaho Code Ann. § 18-8301 *et seq.*, and the “Juvenile Sex Offender Registration Notification and Community Right-to-Know Act,” Idaho Code Ann. § 18-8401 *et seq.*

**B. Civil Liability Statutes**

**1. Idaho Code Ann. § 6-1701 (2019) – Tort Claims in Child Abuse Cases**

**a. Summary**

Idaho provides that a civil lawsuit may be brought by or on behalf of any child who has been sexually abused, as defined in section 18-1506, or sexually exploited for a commercial purpose. Idaho Code Ann. § 6-1701(1).

**b. Damages and Other Relief**

Damages in such a lawsuit,

shall consist of compensation for past and future damages and may consist of emotional and physical pain and suffering, mental anguish, disability, loss of society and companionship, expenses for past and future therapy, and punitive damages where the claimant proves malicious or outrageous conduct by the party against whom the claim for punitive damages is asserted. Idaho Code Ann. § 6-1703.

The prevailing party in a child abuse tort lawsuit shall also be entitled to costs and reasonable attorney’s fees. Idaho Code Ann. § 6-1703.

**c. Statute of Limitations**

A civil lawsuit must be commenced “within five (5) years from the date that an aggrieved child reaches the age of eighteen (18) years or, after the child reaches the age of eighteen (18) years, within five (5) years of the time the child discovers or reasonably should have discovered the act, abuse or exploitation and its causal relationship to an injury or condition suffered by the child, whichever occurs later.” Idaho Code Ann. § 6-1704(1).

“The child need not establish which act in a series of continuing acts, abuse, or exploitation caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan.” Idaho Code Ann. § 6-1704(2).

For purposes of the statute of limitations, “[t]he knowledge of a custodial parent or guardian shall not be imputed to a child under the age of eighteen (18) years.” Idaho Code Ann. § 6-1704(3).

## C. Additional Statutes Specific to Human Trafficking

### 1. Idaho Code Ann. § 18-8601 (2019) – Legislative Intent on Law Enforcement Training

In stating its legislative intent, the Idaho legislature stated that it “finds that it is appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.”

### 2. Idaho Code Ann. § 19-5701 *et seq.* (2018) – Address Confidentiality for Victims of Human Trafficking

Victims of human trafficking who fear for their safety or their children’s safety may apply to the Secretary of State to have an address designated by the state serve as the victim’s address. See Idaho Secretary of State – Address Confidentiality Program, website available at: <https://sos.idaho.gov/acp/>.

### 3. Idaho Code Ann. § 40-507 (2015) – Posters and Signs at Safety Rest Areas

The Idaho Transportation Department allows (but does not require) posters and signs with nonprofit contact information for victims of human trafficking to be posted in or around safety rest areas.

### 4. Idaho Code Ann. § 45-601 *et seq.* – Payment of Wages

An employer’s failure to pay wages permits an employee to seek recovery of wages, as well as penalties and liquidated damages, in a civil lawsuit against the employer. Idaho Code Ann. § 45-614. A successful employee may also recover all costs and reasonable attorney’s fees. Idaho Code Ann. § 45-615. The Idaho Department of Labor is authorized to enforce this provision and to impose administrative penalties for noncompliance. Idaho Code Ann. § 45-616.

More information is available at: <https://www.labor.idaho.gov/dnn/Businesses/Idaho-Labor-Laws/Labor-Laws-FAQ>.

### 5. Idaho Code Ann. § 67-3014 (2015) – Expungement for Victims of Human Trafficking

Any person who was arrested, charged, or convicted of prostitution under Idaho Code § 18-5613 or “any other offense determined by the court to be appropriate” may file a petition to vacate a conviction and expunge the relevant criminal history records that are the result of acts induced by human traffickers. This provision does not apply to convictions for offenses for which a defense of coercion would not be available.

## D. Significant Cases

No significant cases regarding Idaho’s human trafficking statutes were found.

## E. Academic Research/Papers

No academic research or papers were found regarding Idaho’s human trafficking statutes.

## F. Resources

Idaho Anti-Trafficking Coalition:

<https://idahoatc.org/>

Idaho Coalition Against Sexual & Domestic Violence:

<https://idvsa.org/initiatives/legal-assistance/>

National Human Trafficking Hotline (Idaho):

<https://humantraffickinghotline.org/state/idaho>

Shared Hope International, Idaho Report Card (2019):

[http://sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_ID.pdf](http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_ID.pdf)

Shared Hope International, Idaho Analysis and Recommendations (2019):

[http://sharedhope.org/PICframe9/analysis/PIC\\_AR\\_2019\\_ID.pdf](http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_ID.pdf)

U.S. Department of Health & Human Services, *Idaho: Efforts to Combat Human Trafficking* (2017):

[https://www.acf.hhs.gov/sites/default/files/documents/otip/idaho\\_profile\\_efforts\\_to\\_combat\\_human\\_trafficking.pdf](https://www.acf.hhs.gov/sites/default/files/documents/otip/idaho_profile_efforts_to_combat_human_trafficking.pdf)

Idaho Community Outreach Behavioral Services:

<https://idahocobs.org/services/>

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