

Idaho Criminal Justice Commission
Sexual Offenses Subcommittee
November 29, 2021

Location: Idaho Assoc. of Counties, 3100 S. Vista Ave. Ste. 200, Boise, ID 83705 **Time:** 10:00 a.m.–12:00 p.m.

Members Present:

Ashley Dowell, Chair, Idaho Comm. Pardon/Parole
Jared Larsen, Office of the Governor
Erik Lehtinen, Deputy State Appellate Pub. Defender
Mark Kubinski, Criminal Chief, Office of the Attorney General
Nancy Volle, Sex Offender Management Board
Amy Campbell, Idaho State Police
Paul Jagosh, Fraternal Order of Police

Members Not Present:

Scott Grow, Idaho State Senator
Greg Chaney, Idaho State Representative
Louis Hougaard, Office of the Governor
Melissa Wintrow, Idaho State Senator
Heidi Johnson, Deputy Ada County Public Defender

Agenda		Due Date
2:00 pm	Call to Order	
	<ul style="list-style-type: none"> • Welcome and roll call 	
	<ul style="list-style-type: none"> • Approve October 2021 minutes <ul style="list-style-type: none"> ○ ACTION ITEM 	There was a motion to approve the minutes from October 2021 by Erik Lehtinen and was seconded by Mark Kubinski. Motion carried.
	<ul style="list-style-type: none"> • Review of proposed statutory changes 	<u>Sexual Abuse of an Animal:</u> New language. Changed the definition of animal to exclude plants. Need to review the definition of sexual contact and sexual intercourse. The subcommittee was open for discussion of punishment. Most of the cases of bestiality usually involve juveniles and are less egregious than others. Taking this into consideration, this will help determine how to set a punish for these crimes.

Agenda		Due Date
		<p>Notes from Nancy's research on how/if bestiality relates to risk and if bestiality may be considered a precursor or an indicator of future deviant sexual behavior:</p> <p>Bestiality is a paraphilia. A paraphilia is a deviant sexual interest. Having a paraphilia is a risk variable. However, having one paraphilia does not necessarily increase your risk for another paraphilia. There has been some research that shows once you have "crossed over" in the deviancy, you're more accepting of deviancy and more likely to develop more paraphilias. With that said, there's also research that indicates once a person has developed a paraphilia, they can be very focused on that paraphilia and consequently, not develop others. Having a paraphilia is a risk variable because it indicates you've developed a sexual preference for something that is deviant. Most people have a sex drive, or sexual "appetite". The drive or "appetite" can be temporarily satisfied but it never goes away. Depending on the person, after they satisfy themselves sexually, they will crave sex again within minutes, hours, days, weeks, or months. If what they crave is a deviant sexual interest, they're more likely to act on satisfying that desire again. If their deviant sexual interest is criminal, they're more likely to commit a crime again. So, if someone has developed a paraphilia related to a sexual interest in animals, they will crave sex with animals again in the future. With treatment, they can learn to control this. If they don't act on their paraphilia for long enough, the desire may become minimal, or possibly even extinguished. It depends on how deep the desire goes. For people who have pedophilia, which is a paraphilia, commonly that desire is innate and doesn't fully go away. The exception would be one that develops from viewing child pornography, and with enough time away from seeing children sexually, it's possible they can lose the desire.</p>

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	<p>Are you required to register is convicted of this? Yes. Would like to see old ambiguous language removed but making as few changes as possibly. Maybe we could include sections for juveniles that have a lesser punishment. Incremental change is good and come back another year to review it again. Keep language as written in draft.</p> <p>The ranchers are going to want to make sure that they are covered in their line of work. We may need to look into and discuss more exemptions.</p> <p>There are 26 registered individuals for bestiality, most of them are adults.</p> <p><u>Sexual Abuse of Human Remains:</u> Changed “corpse” to “human remains.” Change definition to CDC definition. Changed definition of sexual contact to be consistent with other proposed statute changes. Added in manual-genital or manual-anal to sexual contact. Remove “real or simulated intercourse” and change to sexual contact because it includes that in other statutes. There are other statutes that review the desecration of human remains as well. This definition is consistent with what we have done above. Do we need to add in “object?” We need to make sure it doesn’t include go too far and broad. Add in language to include “penetration of the genitals or anus with an object, instrument, or device.”</p> <p>Punishment is felony and up to five years in correction. What do we want to include in the exceptions? Utah adds in the whole statute “act” so that the judges would determine what in punishable versus just limiting the language to specifics duties/jobs within the specified professions. Once you cite the statute as a whole, it covers all duties. Do we</p>

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	<p>want to do that? Jared Larsen will review this section and work on the language and compare it to the Utah model.</p> <p><u>Sexual abuse of a child under 16:</u> Remove “photographic or electronic” language because it is overly broad and that nothing suggests that the child is naked and if they aren’t than it is unconstitutional. We have other statutes that cover photographic and electronic recordings of minors. Removing constitutionally protected acts.</p> <p><u>Penetration:</u> Remove first sentence. The sentence allows for only females and that has been changed to include that rape can happen to any person.</p> <p><u>Application of the Chapter – Rulemaking Authority:</u> Remove repealed titles, and need to update other sections based on the other title changes made above. Do we want to include incest here? Idaho convictions rarely include incest. They are mostly out of state convictions. Most Idaho cases are charged as a different crime such as L&L. Most of the cases don’t involve a child and the registry has to be listed as including a child. Registry laws require this: 18-8023 (4). Maybe we should look at amending the registry statute to include language that doesn’t include a minor. It depends on how the out of state language is written. The registry needs more flexibility on how to list individuals coming from other states.</p> <p>Would the individuals on the registry for crimes against nature have to come off the registry if we repeal those statutes? Yes, we would have 47 people come off the registry (Idaho and out of state). Some of these are coming off anyways because of the current ongoing litigation. If</p>

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		<p>these changes are made, is the new language retroactive to remove these individuals? May need to include retroactive language and also review if those laws will be compatible for future registering.</p> <p><u>Battery with the Intent to Commit a Serious Felony:</u> Remove infamous crime against nature since suggesting repeal.</p>
	<ul style="list-style-type: none"> Identify topics for December meeting 	For future meetings: 18-1506
	Adjourn- Next Scheduled Meeting, December 13, 2021 at 2pm	There was a motion to adjourn by Jared Larsen and seconded by Mark Kubinski. Motion carried.